

From: Minoli, Kevin
Location: 1200 Pennsylvania Ave. NW (William Jefferson Clinton Building), Room 4000
Importance: Normal
Subject: Ethics Counselling for Justin Schwab
Start Date/Time: Mon 1/16/2017 6:00:00 PM
End Date/Time: Mon 1/16/2017 7:00:00 PM

To: Fugh, Justina[Fugh.Justina@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Packard, Elise[Packard.Elise@epa.gov]
From: Minoli, Kevin
Sent: Tue 5/9/2017 6:46:24 PM
Subject: RE: My recusal statement(s?)

Thanks Justina, that's helpful. Moving forward. (b) (6), (b) (5)

(b) (6), (b) (5)

(b) (6), (b) (5) I know you are meeting with Becky later this week and she has significant experience with this type of practice and can help talk through how it works. Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

-----Original Message-----

From: Fugh, Justina
Sent: Tuesday, May 09, 2017 2:27 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: My recusal statement(s?)

Hi there,

- 1) We have a signed recusal statement for Justin from 2/10/17. That served to properly recuse him.
 - 2) OGC/Ethics amended his certified 278 to add the names of various clients that were omitted in error (ours, not his) on his 278.
 - 3) His 278 was released, together with the addendum, pursuant to the Ethics In Government Act (not FOIA)
 - 4) I told Justin, as I tell every single public filer, that his or her public financial disclosure report is subject to release upon request. I told Justin, as I tell every single other public filer, that I don't need individual permission to release the form and that is released outside of FOIA.
 - 4) I don't recall yet answering any FOIAs about any recusal statement for him. I haven't answered a lot of FOIAs thus far (I have about 30). If I did have a FOIA request for recusal documents, I would release the one from 2/10/17 as well as a new one that we write for him based on his OGC job. That isn't written yet because, as I said, he has a recusal statement on file and has been assiduous in meeting his obligations.
- Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Minoli, Kevin
Sent: Tuesday, May 09, 2017 1:19 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: My recusal statement(s?)

Hi Justina- Can you please see Justin's email below and update us on where things stand with his recusal statement and any FOIA requests related to his recusal statement? Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

-----Original Message-----

From: Schwab, Justin
Sent: Tuesday, May 09, 2017 1:08 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: My recusal statement(s?)

Given the confusion both with the belated, supplemental release of my client list and with the administrator's recusal statement, please consider this a formal request that I be informed *what document* representing my recusal obligations is to be released before it is in fact released.

I have provided a full list of clients weeks ago and need to know whether that has been used to generate a new recusal statement, and if not, why not, before an outdated and generic statement is released instead.

Sent from my iPhone

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Dubois, Roland
Sent: Tue 4/4/2017 10:18:25 PM
Subject: RE: RFS Oral Argument -- deadline COB today

OK. I will add you, Justin, and David to our tally of folks that would like a reserved seat.

Roland

From: Schwab, Justin
Sent: Tuesday, April 4, 2017 4:41 PM
To: Dubois, Roland <Dubois.Roland@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: RFS Oral Argument -- deadline COB today

Justina advises that I am not recused from attending oral argument.

David Fotouhi is not recused at all, and would also like to attend oral argument.

From: Schwab, Justin
Sent: Tuesday, April 4, 2017 10:45 AM
To: Dubois, Roland <Dubois.Roland@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: RFS Oral Argument -- deadline COB today

Thank you.

The question for Justina (now added here) then becomes: assuming I am recused from participation in a matter d/t a covered relationship w/one of the parties to the matter, does merely attending oral argument constitute participation?

Sent from my iPhone

On Apr 4, 2017, at 10:43 AM, Dubois, Roland <Dubois.Roland@epa.gov> wrote:

Justin, I can provide information on the parties, but will defer to others on your recusal question.

AFPM is indeed one of the petitioners. Other petitioners include the American Petroleum institute, a coalition of small refiners (Alon, American Refining, Calumet, Lion Oil, Ergon-West Virginia, Hunt, Placid, Wyoming and U.S. Oil & Refining) , Monroe Energy, Valero, National Farmers Union, National Biodiesel Board, Americans for Clean Energy, Biotechnology Innovation Organization, Growth Energy, National Corn Growers, National Sorghum Producers and the Renewable Fuel Association. Dupont has also intervened.

Roland Dubois

From: Schwab, Justin

Sent: Tuesday, April 4, 2017 10:32 AM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Cc: Fotouhi, David <fotouhi.david@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>

Subject: Re: RFS Oral Argument -- deadline COB today

Without knowing the parties to the matter I can't be sure there is no recusal issue for me (AFPM would be the most likely - chevron, Sunoco as well)

If I am not recused, however, I would like to come (and in fact, even if am barred from personally and substantially participating I would like to attend the argument if that does not by itself constitute P&SP)

Sent from my iPhone

On Apr 4, 2017, at 10:18 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Justin and David

The DC Circuit oral argument on the 2014-2016 RFS standards is scheduled for April 24 at 9:30. It is the only argument on the calendar. We expect that it will last 60-90 minutes.

This case is

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The clerk's office has asked us if we want to reserve some seats for the government (they do that sometimes). For whichever one of you is going to handle this issue going forward, it would probably be a good idea to attend the oral argument if you have time. Justin – I don't know what your recusal situation is with respect to this case or this issue.

Please let me know by COB today if you would like a seat reserved – and we'll see if we can get one for you. (We often do a two-pronged response to DOJ – the minimum number of seats we need and the additional ones we would like if we can get them. It would be helpful to know if you want to be in the minimum number we need or in the extra seats we would like if possible.)

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Schmidt, Lorie
Sent: Mon 4/3/2017 6:16:06 PM
Subject: RE: SSM SIP Call recusal issue

Justina

Here are what I think are all the relevant (and perhaps some irrelevant) facts about the SSM SIP Call:

- Sierra Club filed a petition asking EPA to review state air plans (SIPs) from about 30 - 40 states to determine whether the SIPs contained provisions inconsistent with Clean Air Act requirements governing emission limitations during start up, shut down and malfunction events (SSM events).
- EPA acted on the Sierra Club petition by issuing the SSM SIP Call, which:
 - Described national policy on Clean Air Act requirements for SIP provisions related to SSM events (this included both a restatement of existing policy and a new statement of some changes to the policy)
 - Applied EPA's SSM policy to the state plans and told 36 states (including Oklahoma) that they needed to redo certain provisions so that the state plans were consistent with CAA requirements
- Several states, including Oklahoma, sued us in the DC Circuit
- Texas filed a reconsideration petition requesting reconsideration

■• We are now involved in **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

○ **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Justin is recused from the litigation on SSM SIP Call because OK is a party to the lawsuit.

Is Justin recused from participating in issues related to the national SSM SIP Call policy (which might affect Oklahoma)? It would also be good to know whether the Administrator is recused.

If you need more info – please let me know.

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Schwab, Justin

Sent: Friday, March 31, 2017 5:55 PM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Re: SSM SIP Call recusal issue

I think the ethics folks will have to weigh in here and have copied them for that purpose.

Sent from my iPhone

On Mar 31, 2017, at 5:40 PM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Justin

Before I set up a briefing for you on SSM SIP Call, I need to check another recusal issue with you.

Here is what I understand –

- you are recused from the litigation because Oklahoma is a litigant.

- You do not have a recusal issue on Texas’s petition for reconsideration stemming from any relationship you have with Texas.

Here’s my question. What does the fact that portions of the SSM SIP Call affect Oklahoma (i.e., Oklahoma is one of the states that has SIP provisions that we said were inconsistent with our SSM policy) mean for your recusal? The SSM SIP Call in part restated existing SSM policy and in part (for affirmative defenses) set new policy as a result of the court case. The SSM SIP Call then applied that policy to SIPs from roughly 30 states (including Oklahoma). We are now involved

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process I’m not sure what the presence of Oklahoma as a recipient of the SIP Call means with respect to your recusal issues. It seems like there are two separate pieces to the SIP Call – the national policy and the application of that policy to individual state plans. I don’t know whether you are recused from both pieces, neither piece or just the application of the national policy to Oklahoma.

If it would be helpful for me to talk to you about this – or to Justina, let me know.

If you know the answer for the Administrator, that would also be helpful.

Thanks

Lorie

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Fort, Daniel
Sent: Mon 4/3/2017 4:42:47 PM
Subject: An amendment needs to be filed to your financial disclosure report

Justin:

An amendment needs to be filed with your financial disclosure report. As per the [guidance from the Office of Government Ethics](#) concerning this particular section of the report, you must report any source that paid more than \$5,000 for your personal services in any calendar year during the reporting period, which covers the preceding two calendar years and the current calendar year up to the date of filing. You have to report such payments both from employers and from any clients to whom you personally provided services. You must report a source even if the source made its payment to your employer and not to you.

Our apologies for missing this. If you give us the list of your clients for the reporting period (preceding calendar year and the two previous calendar year) with the necessary information (source name, city/state, brief description of duties) we'll create a document that will amend your form. See the example below.

Widgets Unlimited	Grand Rapids, MI	Legal services (client of Farady, Maxwell & Franklin)
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Dan

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Fort, Daniel
Sent: Thur 2/9/2017 2:54:25 PM
Subject: Cautionary note on asset

Dear Justin:

In reviewing your OGE-278 (Public Financial Disclosure Report) in INTEGRITY, we noticed that you reported owning an interest that might be affected by the performance of your official duties. The asset appears to be over the regulatory thresholds, so we are sending you this cautionary letter to remind you to take appropriate steps to ensure that you do not have a conflict of interest. We are not concluding that you currently have a conflict of interest; rather, you should read the information below and contact an ethics official if you have any questions. Remember, it is your obligation to ensure that your private interests (including your assets) do not conflict with your public duties. Be vigilant!

Why Do We Raise Concerns?

A criminal statute, 18 U.S.C. §208(a), bars you from participating in any “particular matter” that affects any of your own interests or any imputed interest (e.g., spouse or dependent children). Your interests include not only ownership interests (e.g., stock, bonds, mutual funds) but also the interests of outside entities (e.g., any organization in which you are serving as an officer, director, or trustee) and prospective employers (any entity with which you are seeking future employment). So you can’t participate in any particular matter that will have a direct and predictable effect on your financial interest.

The important point to remember here is that 18 U.S.C. §208(a) is a criminal statute. A knowing violation of this statute can result in criminal prosecution and penalties. It’s important to understand the elements of the financial conflict of interest statute. You have to participate “personally and substantially” in a “particular matter” in order for there to be a conflict of interest, and there has to be a “direct and predictable” effect on your financial interests.

What is a particular matter?

A “particular matter” involves any deliberation, decision or action and that is focused on the interests of specific persons/organizations or any identifiable class of persons. It includes “specific party” matters (e.g., contracts, grants, assistance agreements, lawsuits, enforcement action, permits, licenses, audits) and matters of “general applicability” (e.g., rulemaking or policy matters) that distinctively affect a particular industry or identifiable class of persons.

What is “personal and substantial” participation?

Personal participation means that you were personally involved in the matter or that you directed or controlled a subordinate’s participation. *Substantial participation* means that your involvement in the matter was of significance, which includes decision-making, review or

recommendation as to an action being taken, signing or approving a final document, and/or participating in a final decision briefing.

What is a “direct and predictable” effect on a financial interest?

The effect must be direct and predictable and not speculative (though the actual dollar amount does not need to be ascertained). There must be close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest.

YOUR FINANCIAL INTEREST(S) OF CONCERN

We identified the following financial interest(s) that may be affected by the performance of your official duties and that exceed the regulatory exemption levels. This does not necessarily mean that you have a current conflict of interest, but we want to flag the asset(s) for you:

☐☐☐☐☐☐☐ Microsoft

Regulatory Exemption Levels

There are different regulatory exemption levels, depending on the type of particular matter. You can still participate if you own less than the levels below:

SPECIFIC PARTY MATTER

MATTER OF GENERAL APPLICABILITY

e.g., an enforcement action against ABC Widget Company e.g., working on a rulemaking that affects all widget manufacturers

≤\$15,000 aggregate in ABC Widget Co.

≤\$25,000 aggregate in any one widget maker (e.g., ABC Widget Corp. or DEF Widget Corp.)

≤\$25,000 aggregate for any affected non-parties (e.g., DEF Widget Corp. which manufactures a similar product)

≤\$50,000 aggregate in all affected parties (all widget makers)

Don’t forget that you have to add together your own ownership interest and any imputed interest. You also have to aggregate how many assets you own in the same sector.

EXAMPLE: You own \$8,000 worth of ABC Widget and your spouse also owns \$8,000. You cannot direct your staff to participate in an event at ABC Widget offices because you own more than \$15,000 in the company and cannot participate in any particular matter that involves or affects ABC Widget as a specific party.

EXAMPLE: Your father-in-law passed away recently and bequeathed to your spouse shares in an oil and gas company worth \$30,000. You can't work on a specific party matter involving that company and also now can't work on any rulemaking that affects all oil and gas companies.

What to do if you're worried about a conflict

If you are concerned that you have a conflict, contact OGC/Ethics immediately. We will go over the available options for you. Typically, potential conflict of interests are resolved in one of the following ways:

- 1) Don't participate. This means that you do not participate in the matter at all, including attending meetings, receiving briefings or being copied on substantive documents. We recommend that you document your recusal in writing, with a copy to OGC/Ethics.
- 2) Divest entirely or get below the regulatory threshold. You can either sell outright on your own or, if the sale will result in a tax liability for capital gains, then you may instead contact OGC/Ethics for a "Certificate of Divestiture" before you sell. This will enable you to defer capital gains tax, but you have to ask OGC/Ethics for assistance before you divest.
- 3) Ask for a waiver. Only the Agency's Designated Agency Ethics Official (DAEO) in OGC is authorized to waive the prohibition of 18 U.S.C. §208(a) where the interest is "not so substantial as to be deemed likely to affect the integrity of services which the Government may expect." OGC must consult with another federal agency before issuing a waiver, which are rarely granted.

* * * * *

If you need more information or advice, feel free to contact OGC/Ethics at ethics@epa.gov or any of us individually (Daniel Fort, Justina Fugh, Jeanne Duross, Jennie Keith). Any of us or your regional ethics counselor will be happy to assist you.

To: Fugh, Justina[Fugh.Justina@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
From: Cozad, David
Sent: Wed 2/1/2017 1:39:43 PM
Subject: RE: follow up

Thanks

From: Fugh, Justina
Sent: Tuesday, January 31, 2017 7:27 PM
To: Cozad, David <Cozad.David@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Subject: follow up

Hi there,

Sorry to be unavailable for you earlier today. Justin stopped by and asked whether he could review a list of pending enforcement cases just to see which ones obviously present conflicts for him. I said he could, that just reviewing a list in and of itself is not direct and substantial participation but rather just a ministerial function to help ascertain whether he has a concern or not.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]
From: Cozad, David
Sent: Tue 1/31/2017 5:49:52 PM
Subject: Got a few minutes between 1-2 today?

Hi Justina,

Justin and I would like a few minutes of your time to talk about conflicts/recusals. We have a need to share lots of enforcement case information and could use your advice. Both of us are free during next hour if you happen to have a little time. Thanks

Dave

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]
From: Ex. 6 - Personal Privacy
Sent: Thur 1/26/2017 7:22:17 PM
Subject: Re: questions about Integrity

Excellent. Thank you for your help!

Best,
(b) (6)

On Thu, Jan 26, 2017 at 2:11 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Ex. 6 - Personal Privacy

Thanks very much for tackling this effort for your husband. Here are my answers to your questions:

1. Do we need to disclose Ex. 6 - Personal Privacy Also, what are the policies relating to accepting/disclosing such gifts in the future?

JUSTINA: No, you do not ever report gifts Ex. 6 - Personal Privacy because gifts from any relative are not reportable on the "new entrant" form. With regard to the future, Justin still will not report on any gift of any amount from a relative, but the next time he files (when he reports on CY 2016), he will have to report on gifts received from non-relatives, but only if the gift(s) from one source exceeds \$390. If there are a bunch of gifts from the same source over the year, then you aggregate to see if you're over the \$390 threshold. But you can disregard any gift that is worth less than about \$150 (this number will go up a tad to maybe \$160 or so, but I don't yet know what it will be).

2. It seems we do not need to list our personal residence as an asset or the mortgage on it as a liability. I just want to confirm that.

JUSTINA: correct.

3. Vehicles did not appear to be among assets we should list, which I also want to confirm. Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

JUSTINA: do not report the car either.

4. We are awaiting confirmation of Justin's exact 2017 wages from his previous

employer but have otherwise filled in most of the form.

JUSTINA: Okay and thanks!

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for
the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ex. 6 - Personal Privacy

Sent: Thursday, January 26, 2017 12:53 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: questions about Integrity

Justina,

I am helping my husband, Justin Schwab, fill out the Integrity form and have a few questions I wanted to ask to make sure we are doing it correctly.

1. Do we need to disclose Ex. 6 - Personal Privacy Also, what are the policies relating to accepting/disclosing such gifts in the future?

2. It seems we do not need to list our personal residence as an asset or the mortgage on it as a liability. I just want to confirm that.

3. Vehicles did not appear to be among assets we should list, which I also want to confirm.

Ex. 6 - Personal Privacy

We are awaiting confirmation of Justin's exact 2017 wages from his previous employer but have otherwise filled in most of the form.

Thank you very much for your help!

Best,

(b) (6)

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin J.
Sent: Tue 1/17/2017 11:34:02 PM
Subject: RE: confirmation of our discussion yesterday

Ex. 6 - Personal Privacy

Dear Justina,

Thank you for this message, and for providing the illuminating training yesterday.

I agree that the below is an accurate summary of our discussion.

Ex. 6 - Personal Privacy and I will attend to the INTEGRITY filing diligently, although we may need to rely on you and your office for help, as you kindly offer.

And thank you very much for the information about the tuition assistance.

I look forward to working with you as well!

Best,

Justin

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Tuesday, January 17, 2017 5:32 PM
To: Schwab, Justin J. **Ex. 6 - Personal Privacy**
Subject: confirmation of our discussion yesterday

Hi there,

Thank you so much for taking the time to visit with EPA Ethics yesterday. Here is a quick summary of our discussion:

• We met to talk about your ethics responsibilities as an incoming political appointee. You don't yet know exactly what position you will have or what your salary will be, but take some comfort in knowing that our meeting met the requirements of 5 CFR 2638.304, initial ethics training, as set forth in the recently effective OGE rules.

• You will resign from your employer, Baker Hostetler, this week and, as an associate, **Ex. 6 - Personal Privacy**

• You very cheerfully informed us that your **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy To the extent that you or she may need help completing your financial disclosure report in INTEGRITY, we at EPA Ethics are happy to help. You will have 30 days from 1/20/17 to complete your INTEGRITY filing (due 2/21/17).

• Based on our conversation, for one year, you cannot work on any particular matter in which your former firm or any client to whom you provided services is a party or represents a party. But other than that, I didn't anticipate obvious ethics concerns.

I look forward to working with you in the future.

Cheers,

Justina

PS -- I mentioned to you the DC Tuition Assistance Grant program (see <https://osse.dc.gov/dctag>). Under this program, every DC resident is eligible to apply for up to \$10,000 toward the difference between in-state and out-of-state tuition at public four-year colleges and universities.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

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To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin J.
Sent: Sun 1/15/2017 5:16:48 AM
Subject: Re: Your anticipated appointment to the United States Environmental Protection Agency

Sounds good, see you soon!

Sent from my iPhone

On Jan 15, 2017, at 12:15 AM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Hi Justin-

Monday at 1:00 works well for us, so we will see you then. I have included more specific directions to the building and our offices below. If you need to adjust the date or time to meet for any reason, simply let us know.

Thank you,
Kevin

The Office of General Counsel is located in the EPA Headquarters Complex, 1200 Pennsylvania Avenue, NW, in Washington, DC. We are in the William Jefferson Clinton North Building. The main visitor entrance to both the North and South Buildings are located directly above the Federal Triangle Metro Station, which is on 12th Street midway between Pennsylvania and Constitution Avenues. The government is closed Monday in observance of the Martin Luther King Day Holiday, so it is likely the you will need to enter via the South Building. Once at the building, please proceed into the building where you will be greeted by our security staff. As a guest, you will need to present a photo ID and proceed through the metal detectors. We will leave a list with the guards that morning so they should be expecting you, but if for some reason they are not, simply please tell the guards that you are there to meet with myself or Justina, and they will let us know that you arrived. One of us will then come down and meet you at the main entrance and escort you up to our offices.

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: [202-564-8064](tel:202-564-8064)

On Jan 14, 2017, at 8:36 PM, Schwab, Justin J. { **Ex. 6 - Personal Privacy** } wrote:

Dear Mr. Minoli (and Ms. Fugh) –

Thank you for this message, and for your kind welcome.

I look forward to joining the EPA and working with you and your colleagues, and appreciate the importance of the briefing you describe.

I am already based in D.C., and can come to your offices.

I am generally available Monday, January 16. May I suggest 1 PM as a time to meet?

My cell number is Ex. 6 - Personal Privacy Please respond to this email or call my cell to confirm that time or suggest an alternative time.

Best,

Justin

From: Minoli, Kevin [<mailto:Minoli.Kevin@epa.gov>]

Sent: Saturday, January 14, 2017 8:24 PM

To: Schwab, Justin J.

Cc: Fugh, Justina

Subject: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Schwab-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635; the Hatch Act, 5 USC § 7321 et seq., and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at 18 USC § 208 and representational conflicts at 18 USC §§ 203 and 205. In order to comply with these requirements, you will need to complete a public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at 18 USC § 207.

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meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

Our goal is to meet with all of the individuals identified by the President-Elect's Transition Team prior to January 20, 2017, so that you may begin your federal service that day with the confidence that you are in compliance with all federal ethics requirements. Please let us know when would be best for you, and we will work to accommodate your schedule if at all possible. As always, please also feel free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

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To: Schwab, Justin J. **Ex. 6 - Personal Privacy**
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Sun 1/15/2017 5:15:14 AM
Subject: Re: Your anticipated appointment to the United States Environmental Protection Agency

Hi Justin-

Monday at 1:00 works well for us, so we will see you then. I have included more specific directions to the building and our offices below. If you need to adjust the date or time to meet for any reason, simply let us know.

Thank you,
Kevin

The Office of General Counsel is located in the EPA Headquarters Complex, 1200 Pennsylvania Avenue, NW, in Washington, DC. We are in the William Jefferson Clinton North Building. The main visitor entrance to both the North and South Buildings are located directly above the Federal Triangle Metro Station, which is on 12th Street midway between Pennsylvania and Constitution Avenues. The government is closed Monday in observance of the Martin Luther King Day Holiday, so it is likely the you will need to enter via the South Building. Once at the building, please proceed into the building where you will be greeted by our security staff. As a guest, you will need to present a photo ID and proceed through the metal detectors. We will leave a list with the guards that morning so they should be expecting you, but if for some reason they are not, simply please tell the guards that you are there to meet with myself or Justina, and they will let us know that you arrived. One of us will then come down and meet you at the main entrance and escort you up to our offices.

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

On Jan 14, 2017, at 8:36 PM, Schwab, Justin J. **Ex. 6 - Personal Privacy** wrote:

Dear Mr. Minoli (and Ms. Fugh) –

Thank you for this message, and for your kind welcome.

I look forward to joining the EPA and working with you and your colleagues, and appreciate the importance of the briefing you describe.

I am already based in D.C., and can come to your offices.

I am generally available Monday, January 16. May I suggest 1 PM as a time to meet?

My cell number is Ex. 6 - Personal Privacy Please respond to this email or call my cell to confirm that time or suggest an alternative time.

Best,

Justin

From: Minoli, Kevin [<mailto:Minoli.Kevin@epa.gov>]
Sent: Saturday, January 14, 2017 8:24 PM
To: Schwab, Justin J.
Cc: Fugh, Justina
Subject: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Schwab-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

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understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to “ensure that every citizen can have complete confidence in the integrity of the Federal Government.” Our goal as the leaders of the EPA’s ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

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free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

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To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin J.
Sent: Sun 1/15/2017 1:36:11 AM
Subject: RE: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Minoli (and Ms. Fugh) –

Thank you for this message, and for your kind welcome.

I look forward to joining the EPA and working with you and your colleagues, and appreciate the importance of the briefing you describe.

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Best,

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From: Minoli, Kevin [mailto:Minoli.Kevin@epa.gov]
Sent: Saturday, January 14, 2017 8:24 PM
To: Schwab, Justin J.
Cc: Fugh, Justina
Subject: Your anticipated appointment to the United States Environmental Protection Agency

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Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

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To: **Ex. 6 - Personal Privacy**
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Sun 1/15/2017 1:24:23 AM
Subject: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Schwab-

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Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Tue 5/9/2017 6:27:14 PM
Subject: RE: My recusal statement(s?)

Hi there,

- 1) We have a signed recusal statement for Justin from 2/10/17. That served to properly recuse him.
 - 2) OGC/Ethics amended his certified 278 to add the names of various clients that were omitted in error (ours, not his) on his 278.
 - 3) His 278 was released, together with the addendum, pursuant to the Ethics In Government Act (not FOIA)
 - 4) I told Justin, as I tell every single public filer, that his or her public financial disclosure report is subject to release upon request. I told Justin, as I tell every single other public filer, that I don't need individual permission to release the form and that is released outside of FOIA.
 - 4) I don't recall yet answering any FOIAs about any recusal statement for him. I haven't answered a lot of FOIAs thus far (I have about 30). If I did have a FOIA request for recusal documents, I would release the one from 2/10/17 as well as a new one that we write for him based on his OGC job. That isn't written yet because, as I said, he has a recusal statement on file and has been assiduous in meeting his obligations.
- Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Minoli, Kevin
Sent: Tuesday, May 09, 2017 1:19 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: My recusal statement(s?)

Hi Justina- Can you please see Justin's email below and update us on where things stand with his recusal statement and any FOIA requests related to his recusal statement? Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

-----Original Message-----

From: Schwab, Justin
Sent: Tuesday, May 09, 2017 1:08 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: My recusal statement(s?)

Given the confusion both with the belated, supplemental release of my client list and with the administrator's recusal statement, please consider this a formal request that I be informed *what document* representing my recusal obligations is to be released before it is in fact released.

I have provided a full list of clients weeks ago and need to know whether that has been used to generate a new recusal statement, and if not, why not, before an outdated and generic statement is released instead.

Sent from my iPhone

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Fort, Daniel[Fort.Daniel@epa.gov]; Keith, Jennie[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Fri 4/14/2017 9:36:44 PM
Subject: RE: Query re: appropriateness of my attending a conference ABA CLA draft agenda - 4-10-17.docx

Hi Justin –

If you want to eat lunch at the April 19th ABA/CropLife America program, then you will have to pay \$15. You can give your payment to the event staff at the registration table. If you write a check, make your check out to Arent Fox, LLP.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Schwab, Justin
Sent: Thursday, April 13, 2017 11:49 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Fort, Daniel <Fort.Daniel@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Re: Query re: appropriateness of my attending a conference ABA CLA draft agenda - 4-10-17.docx

Thanks!

Sent from my iPhone

On Apr 13, 2017, at 11:14 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

Thanks very much for this question as it allowed me to reach out to a dear friend of mine, Keith Matthews, who is the chair of the ABA SEER Chemical Regulation and Right-to-Know Committee. Because both of the sponsors of this event (the ABA and CropLife

America) are federally registered lobbyists, I needed to ascertain if there is a fee for attendance. Because you signed the Trump ethics pledge, you cannot accept any gift from a federally registered lobbyist, including free attendance or a meal.

From the agenda, I see that there is a welcome and a break. It's possible that refreshments will be served. If so, you may partake because, under the gift rules, light refreshments and non-alcoholic beverages are excluded from the definition of a gift and therefore also excluded from the lobbying gift prohibitions. But the agenda includes a lunch, which is not excluded from the definition and cannot be accepted by you. Instead, you will have to pay for the lunch out of your own pocket.

Keith is checking on the price of the lunch per person, which I will send along to you when I get it. If you plan to pay by check, let me know so that I can tell you to whom to make out the check. By the way, I've also connected with the USDA ethics official to let him know that I'll send the per person lunch price to him for his acting GC too.

Bottom line is that you can attend and eat any refreshments offered at the welcome and the break, but that you will have to pay for the lunch out of your pocket.

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From: Schwab, Justin

Sent: Thursday, April 13, 2017 9:49 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Fort, Daniel <Fort.Daniel@epa.gov>

Subject: Query re: appropriateness of my attending a conference ABA CLA draft agenda - 4-10-17.docx

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<ABA CLA draft agenda - 4-10-17.docx>

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Fort, Daniel[Fort.Daniel@epa.gov]; Keith, Jennie[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Thur 4/13/2017 3:14:34 PM
Subject: RE: Query re: appropriateness of my attending a conference ABA CLA draft agenda - 4-10-17.docx
[ABA CLA draft agenda - 4-10-17.docx](#)

Hi Justin,

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Sent: Thursday, April 13, 2017 9:49 AM

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To: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Thur 3/9/2017 2:11:41 AM
Subject: FW: reminder about ethics

I forgot to mention, Justin, that I need to revise your signed recusal statement to reflect the obligations under the pledge. So that will be coming soon!

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Wednesday, March 08, 2017 9:05 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Subject: reminder about ethics

Hi there,

1) President's Ethics Pledge

As you know, on January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. You were required to sign this pledge, which you have done (thanks!). Here is a reminder about the significant points of the Executive Order:

If you were a federally registered lobbyist in the previous 2 years --

- ☐ ☐ ☐ ☐ ☐ ☐ For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- ☐ ☐ ☐ ☐ ☐ ☐ You cannot accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance, early and often.
- ☐ ☐ ☐ ☐ ☐ ☐ **For 2 years** (an additional year than discussed previously) from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- ☐ ☐ ☐ ☐ ☐ ☐ Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service –

- ☐ ☐ ☐ ☐ ☐ ☐ For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- ☐ ☐ ☐ ☐ ☐ ☐ For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- ☐ ☐ ☐ ☐ ☐ ☐ For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their “agent” requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Thur 3/9/2017 2:05:13 AM
Subject: reminder about ethics

Hi there,

1) President's Ethics Pledge

As you know, on January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. You were required to sign this pledge, which you have done (thanks!). Here is a reminder about the significant points of the Executive Order:

If you were a federally registered lobbyist in the previous 2 years --

- ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ You cannot accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance, early and often.

- ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ **For 2 years** (an additional year than discussed previously) from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and

- ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service --

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their “agent” requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Fri 2/10/2017 9:02:07 PM
Subject: RE: here's a draft recusal statement for you

I find examples help me to know what you mean:

You are sitting in an EPA meeting, and someone else starts talking about a case that's on your mental "uh oh" list. The prudent thing to do is to say, "I can't hear this," or leave room. Even though you may not consider your mere presence in the room to be "participation," I don't know what your role is or whether the other people in the room think that you are giving implicit approval of their actions or decisions.

You are handed a reg review agenda that includes a case on your "uh oh" list. That alone is not participation. Just don't stay to listen to the update.

From: Schwab, Justin
Sent: Friday, February 10, 2017 3:56 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: here's a draft recusal statement for you

Thank you for this.

I have one question:

"I am prohibited from participating in any particular matter in which my former employer, ***Baker and Hostetler***, is or represents a party. I understand that my recusal lasts for one year from the date that I left the firm, so this recusal will end on {insert date}."

Does "participating in any particular matter" include receiving updates on case progress in the nature of a docket review?

Sent from my iPhone

On Feb 10, 2017, at 3:30 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

We are nearly ready to certify your 278, so this recusal statement reflects your ownership interest in Microsoft. I think I've captured the fact that you want to monitor personally your impartiality and bar obligations with respect to former clients. Take a look, please, and let me know if you have any questions. If not, then please print this out on letterhead, sign and date it.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<draft recusal statement.docx>

To: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Fri 2/10/2017 8:30:55 PM
Subject: here's a draft recusal statement for you
[draft recusal statement.docx](#)

We are nearly ready to certify your 278, so this recusal statement reflects your ownership interest in Microsoft. I think I've captured the fact that you want to monitor personally your impartiality and bar obligations with respect to former clients. Take a look, please, and let me know if you have any questions. If not, then please print this out on letterhead, sign and date it.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Thur 2/9/2017 3:01:18 AM
Subject: RE: Your ownership interest in Microsoft

Okay. So you'll just have an financial conflict of interest with Microsoft as a specific party.

From: Schwab, Justin
Sent: Wednesday, February 08, 2017 9:30 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Your ownership interest in Microsoft

Hello,

Ex. 6 - Personal Privacy

Best,

Justin

Sent from my iPhone

On Feb 8, 2017, at 8:57 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

You indicated in your financial disclosure report that you own Ex. 6 - Personal Privacy
Ex. 6 - Personal Privacy Can you tell me whether your ownership interest is above or below \$25,000? That makes a difference to us as to whether you can work on particular matters of general applicability that affect this sector.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Thur 2/9/2017 1:57:38 AM
Subject: Your ownership interest in Microsoft

Hi there,

You indicated in your financial disclosure report that you own **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy Can you tell me whether your ownership interest is above or below \$25,000? That makes a difference to us as to whether you can work on particular matters of general applicability that affect this sector.

Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Ex. 6 - Personal Privacy
From: Fugh, Justina
Sent: Mon 1/30/2017 5:42:49 AM
Subject: next steps now that you are an EPA employee

Hi Justin,

I had occasion to review my earlier email to you, and I have to apologize to you for how it comes across. It does seem unduly patronizing, which is not what I intended at all. I'm so sorry and hope you can forgive me.

Now that you are officially sworn in as an EPA employee, I want to provide you with specific ethics advice:

- Please submit your new entrant public financial disclosure report in INTEGRITY. We appreciate that you have already started, so let us know if you need any further assistance. The report is due on 2/21/17. If you need an extension, you have to ask me before the expiration of the deadline. We have switched the user ID on that account to your EPA email address. That way, if we have questions or comments about your submission, we can communicate with you through INTEGRITY using your EPA email.
- Last week, you resigned from Baker Hostetler. Although you continue to participate in Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy It is unlikely that any particular matter in which you participate as an EPA employee will affect the ability or willingness of the firm to fulfill its obligations regarding Ex. 6 - Personal Privacy Therefore, I concluded that you do not have any financial conflict of interest with Baker Hostetler.
- Pursuant to 5 CFR 2635.502(b)(1)(iv), you have a covered relationship with the firm and any clients to whom you personally provided legal services. You do not have a covered relationship with all of the firm's clients, just the ones to whom you provided services over the past year. Under the impartiality regulations, for one year from your resignation from the firm and for one year from when you last provided services to a particular client, you cannot participate personally and substantially in any specific party matter in which that entity is or represents a party. Prior to participation, you need to consult with OGC/Ethics and, after consideration of the impartiality factors set forth at 5 CFR 2635.502(d), we may (or may not) allow you to participate nonetheless.

As we discussed at length on 1/26/17, this restriction does not generally extend to particular matters of general applicability, such as rulemaking. But you should not participate in or attend a meeting at which one of your covered relationships is present unless you first seek authorization. You are going to identify the clients

for whom you provided services over the past year and then work with me to identify those that should be listed on a recusal or screening arrangement as appropriate.

- We also discussed your bar obligations. You are inactive in New York but active in DC. We distinguished your situation from that of, say, an attorney coming to EPA from a state. In your case, you need to look at, for example, rules 1.7 (conflict of interest) and 1.9 (conflict of interest: former client). OGC/Ethics does not provide advice on how you should interpret your bar rules, but we are happy to assist you in ensuring that you are aware of your obligations and that you carry out your EPA duties as an attorney consistent with those rules.

I look forward to working with you, and thanks for paying attention to ethics issues!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina

Sent: Tuesday, January 17, 2017 5:32 PM

To: [REDACTED] **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy

Subject: confirmation of our discussion yesterday

Hi there,

Thank you so much for taking the time to visit with EPA Ethics yesterday. Here is a quick summary of our discussion:

- We met to talk about your ethics responsibilities as an incoming political appointee. You don't yet know exactly what position you will have or what your salary will be, but take some comfort in knowing that our meeting met the requirements of 5 CFR 2638.304, initial ethics training, as set forth in the recently effective OGE rules.
- You will resign from your employer, Baker Hostetler, this week and, as an associate, do [REDACTED] **Ex. 6 - Personal Privacy**
- You very cheerfully informed us that [REDACTED] **Ex. 6 - Personal Privacy**
[REDACTED] **Ex. 6 - Personal Privacy** (b) (6)
(b) (6)
(b) (6) To the extent that you or she may need help completing your financial disclosure report in INTEGRITY, we at EPA Ethics are happy to help. You will have 30 days from 1/20/17 to complete your INTEGRITY filing (due 2/21/17).
- Based on our conversation, for one year, you cannot work on any particular matter in which your former firm or any client to whom you provided services is a party or

represents a party. But other than that, I didn't anticipate obvious ethics concerns.

I look forward to working with you in the future.

Cheers,

Justina

PS -- I mentioned to you the DC Tuition Assistance Grant program (see <https://osse.dc.gov/dctag> <https://osse.dc.gov/dctag>). Under this program, every DC resident is eligible to apply for up to \$10,000 toward the difference between in-state and out-of-state tuition at public four-year colleges and universities.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: **Ex. 6 - Personal Privacy**
Cc: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Thur 1/26/2017 7:11:47 PM
Subject: RE: questions about Integrity

Hi

Thanks very much for tackling this effort for your husband. Here are my answers to your questions:

1. Do we need to disclose **Ex. 6 - Personal Privacy** Also, what are the policies relating to accepting/disclosing such gifts in the future?

JUSTINA: No, you do not ever report gifts **Ex. 6 - Personal Privacy** because gifts from any relative are not reportable on the "new entrant" form. With regard to the future, Justin still will not report on any gift of any amount from a relative, but the next time he files (when he reports on CY 2016), he will have to report on gifts received from non-relatives, but only if the gift(s) from one source exceeds \$390. If there are a bunch of gifts from the same source over the year, then you aggregate to see if you're over the \$390 threshold. But you can disregard any gift that is worth less than about \$150 (this number will go up a tad to maybe \$160 or so, but I don't yet know what it will be).

2. It seems we do not need to list our personal residence as an asset or the mortgage on it as a liability. I just want to confirm that.

JUSTINA: correct.

3. Vehicles did not appear to be among assets we should list, which I also want to confirm.

Ex. 6 - Personal Privacy

JUSTINA: do not report the car either.

4. We are awaiting confirmation of Justin's exact 2017 wages from his previous employer but have otherwise filled in most of the form.

JUSTINA: Okay and thanks!

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ex. 6 - Personal Privacy
Sent: Thursday, January 26, 2017 12:53 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: questions about Integrity

Justina,

I am helping my husband, Justin Schwab, fill out the Integrity form and have a few questions I wanted to ask to make sure we are doing it correctly.

1. Do we need to disclose gifts Ex. 6 - Personal Privacy Also, what are the policies relating to accepting/disclosing such gifts in the future?

2. It seems we do not need to list our personal residence as an asset or the mortgage on it as a liability. I just want to confirm that.

3. Vehicles did not appear to be among assets we should list, which I also want to confirm. Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

We are awaiting confirmation of Justin's exact 2017 wages from his previous employer but have otherwise filled in most of the form.

Thank you very much for your help!

Best,

(b) (6)

From: Minoli, Kevin
Location: 1200 Pennsylvania Ave. NW (William Jefferson Clinton Building), Room 4000
Importance: Normal
Subject: Ethics Counselling
Start Date/Time: Mon 1/16/2017 6:00:00 PM
End Date/Time: Mon 1/16/2017 7:00:00 PM

From: Schwab, Justin J.
Location: 1200 Pennsylvania Ave. NW (William Jefferson Clinton Building), Room 4000
Importance: Normal
Subject: Accepted: Ethics Counselling
Start Date/Time: Mon 1/16/2017 6:00:00 PM
End Date/Time: Mon 1/16/2017 7:00:00 PM

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Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

To: Schwab, Justin[schwab.justin@epa.gov]; Fugh, Justina (Fugh.Justina@epa.gov)[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Tue 5/9/2017 5:18:31 PM
Subject: RE: My recusal statement(s?)

Hi Justina- Can you please see Justin's email below and update us on where things stand with his recusal statement and any FOIA requests related to his recusal statement? Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

-----Original Message-----

From: Schwab, Justin
Sent: Tuesday, May 09, 2017 1:08 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: My recusal statement(s?)

Given the confusion both with the belated, supplemental release of my client list and with the administrator's recusal statement, please consider this a formal request that I be informed *what document* representing my recusal obligations is to be released before it is in fact released.

I have provided a full list of clients weeks ago and need to know whether that has been used to generate a new recusal statement, and if not, why not, before an outdated and generic statement is released instead.

Sent from my iPhone

To: Schwab, Justin[schwab.justin@epa.gov]
From: Minoli, Kevin
Sent: Wed 3/29/2017 1:41:55 PM
Subject: Re: Ethics questions

Hi Justin- She returns tomorrow. I will send this to the team, but it may take a day. Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Mar 29, 2017, at 8:17 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <schwab.justin@epa.gov>
Date: March 27, 2017 at 6:41:17 PM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Fwd: Ethics questions

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <schwab.justin@epa.gov>
Date: March 24, 2017 at 5:39:22 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Ethics questions

Dear Justina,

I need your expert advice on the following questions.

Thank you for your attention to this.

1) Am I right in my understanding of the combined effect of the impartiality regulations and the Trump Administration pledge:

I may participate in a specific party matter involving a party for whom I provided legal services while at my former law firm (so long as they are not represented *by* my law firm in the matter, in which case I would have to wait until 2 years from the date I left the firm), so long as I have not worked on that client's matters within the past 2 years? (The regulations state 1 year; Trump pledge extends it to 2.)

2) As I have mentioned before, a judge for whom I clerked is receiving an award in New York City on May 9.

Are there any ethics problems with Ex. 6 - Personal Privacy purchasing a seat at this event for me? What about a table provided by the Federal Bar Council for the judge's former clerks? What about a table purchased by one of those former clerks, or a firm at which one or more of the former clerks work?

Best,

Justin

To: Schwab, Justin[schwab.justin@epa.gov]
From: Minoli, Kevin
Sent: Fri 3/17/2017 12:19:35 AM
Subject: FW: American Fuel & Petrochemicals Manufacturing Ass'n - Petition for Reconsideration (2016 Cellulosic Biofuel Mandate)

From the subject line would you have any recusal considerations?

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Schwab, Justin[schwab.justin@epa.gov]
From: Minoli, Kevin
Sent: Wed 2/8/2017 12:45:46 AM
Subject: Recusal Check

Just because this is a MACT case, before I send you something I want to make sure you are not recused from the following:

Sierra Club v. EPA, No. 15-1246, which is a challenge to “our finding that we have met our CAA 112(c)(6) obligation to issue MACT air toxic standards for source categories that emit 90% of seven specific HAPS (hazardous air pollutants).”

Let me know. Thanks! Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Schwab, Justin[schwab.justin@epa.gov]
From: Minoli, Kevin
Sent: Fri 2/3/2017 8:46:53 PM
Subject: For Your Awareness: Ethics Note to Go Out On Expressing Personal Opinions

Justin- For your awareness, the note below will be going from Justina to the Deputy Ethics Officials across the agency with a request that they send to the folks in their offices. Catherine made Don aware of this. Kevin

Dear ethics colleagues,

Lately, we have received questions about how to advise employees who wonder about the possible ethical implications of sharing their personal opinions, including on matters that relate to EPA, in social media. This message is written so that you may share it directly with your staff. We hope you find it helpful. In the message below, the “you” refers to EPA employees.

ETHICS REMINDERS FOR EPA EMPLOYEES

Many EPA employees have inquired about the possible ethical implications of sharing your personal opinions on science, policy or politics, particularly in social media. You as a United States citizen are free to express yourself about matters that are important to you, including ones that relate to EPA. Your ability to express yourself includes doing so in the workplace and in personal social media. But, when you do express yourself in the workplace or EPA (which *is* your workplace), there are three things you should bear in mind: the federal ethics rules continue to apply to you as they always have; the rules depending on whether you are speaking in your official EPA capacity or your individual capacity; and your expression of your views in the workplace needs to comply with agency policies prohibiting conduct that is offensive, disruptive, or harassing to others.

Understanding the Ethics Rules

-

While you may express yourself, please remember that you can't misuse your federal position when doing so. We want to help ensure you understand every employee's ethics obligations while being clear that we are not limiting or expanding your ability to act or communicate, nor taking any position in support of or against such actions or communications. This message explains the ethics rules you should consider when you speak or write or otherwise express your personal opinions.

Let's start with the basics. The ethics rules have not changed because we have a new Administration. We, as EPA employees, are still bound by the Hatch Act and the Standards of Ethical Conduct for Employees of the Executive Branch, and the conflict of interest statutes. The ethics rules do not change depending on the type of forum. The same rules about misuse of position, EPA's limited personal use policy, fundraising and the Hatch Act apply to your use of social media, tweeting or blogging as they do to non-virtual, more traditional forms of communication.

Understanding the Capacity In Which You Acting

-

In terms of ethics rules, we view any activity in one of two ways: either you are acting in your *OFFICIAL EPA* capacity, or you are acting in your *INDIVIDUAL PERSONAL* capacity. There is no in-between, no "professional" capacity category. It's either official duty or personal capacity.

When speaking or writing, including blogging and in social media, you should be very clear in what capacity you are communicating. We liken it to staying in your designated lane when driving: you can be in one lane of the highway or the other, and you can also switch lanes, but don't straddle the dotted line or weave back and forth. The safest drivers stay in the middle of their designated lane and signal appropriately when they are changing lanes. It's the same with ethics. The ethical employee knows and makes clear to others when she is acting in her official capacity versus her personal capacity.

Typically, an activity is undertaken in OFFICIAL CAPACITY when it is consistent with statutory authority and Agency or office mission and assigned duties. When working in your official capacity, you can use EPA time and resources, including EPA email address, EPA phone number, EPA equipment and property and, if applicable, subordinates. To participate in PERSONAL CAPACITY, we urge you not to use your EPA email address or contact

information and, if possible, not refer to EPA position or title. If you feel you must refer to your EPA position or title, then the prudential advice is to do so as one of several biographical details with EPA not having any undue prominence. You should be clear you are expressing a personal opinion, not speaking on behalf of the Agency.

Understanding the Limits on Unprofessional Conduct

Displaying offensive materials or engaging in conversations that are offensive or disruptive to your colleagues is unprofessional and inappropriate. Harassment based on conduct that is threatening, intimidating, and/or bullying will not be tolerated, per EPA Order 4711.

For Those Who Want to Know More

To assist you in navigating the ethics and Hatch Act rules that apply to communications, whether in personal or official capacity, we created a couple of charts. We hope they help guide you to stay in the correct ethics “lane.” Treat your fellow employees with the dignity and respect we all deserve and to stay committed to and focused on our core mission, protecting human health and the environment. As always, if you have an ethics question, please don’t hesitate to contact the OGC Ethics team, your regional ethics counsel or your Deputy Ethics Official. To reach OGC Ethics, send an email to ethics@epa.gov.

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

AUG 7 - 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Justin Schwab
Deputy General Counsel

TO: Kevin S. Minoli
Acting General Counsel
Designated Agency Ethics Official

A handwritten signature in black ink, appearing to read "Justin Schwab".

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum updates my earlier recusal by specifying my former clients, but I have been complying and will continue to comply with my continuing obligations to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment. Because of the current level of my financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects **Microsoft** as a specific party.

OBLIGATIONS UNDER EXECUTIVE ORDER 13,770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my

former employer, **Baker and Hostetler LLP**, or any former client to whom I provided legal services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means five or more parties. Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA.¹

RECUSAL LIST	
In effect until January 23, 2019	
FORMER EMPLOYER: Baker and Hostetler LLP	
<p>FORMER CLIENTS:</p> <p>AK Steel Corporation American Bureau of Shipping American Fuel & Petrochemical Manufacturers Arcelormittal Usa LLC Association of Battery Recyclers Big River Steel, LLC Broadwood Investment Holdings, LP Cape Wind Associates, LLC Caterpillar, Inc. Cato Institute Chevron U.S.A. Inc. Colgate-Palmolive Company Competitive Enterprise Institute C.R. Bard, Inc. Grupo Ferré Rangel JTEKT North America Corporation Mississippi Silicon, LLC</p>	<p>NYK Line North America, Inc. Oldcastle Materials, Inc. Pentair Residential Filtration, LLC Resolute Forest Products Inc. Salt River Pima-Maricopa Indian Community Sanders Lead Company, Inc. Shamrock Foods Company State Government Leadership Foundation Sunoco, Inc. The Aluminum Association, Inc. The Center for Consumer Freedom The National Center for Public Policy Research The Scotts Company, LLC The Southern Company Trafigura Trading LLC United States Beet Sugar Association Valero Renewable Fuels Company, LLC</p>

¹ For my former clients that are not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

I am advised by OGC/Ethics that Executive Order 13770 defines “former employer” to exclude state government,² and the Office of Government Ethics has determined that the same exclusion applies to the definition of “former client.”³ But as an executive branch employee, I understand that I am also subject to the federal impartiality standards and have a one-year cooling off period with any former client who is a state government. Therefore, I will not participate personally and substantially in any particular matter involving specific parties in which the **State of Oklahoma** or the **Virginia House of Delegates** is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). For federal ethics purposes, I understand that my recusal remains in effect for one year from the date that I last provided services to that client, and this federal ethics limitation does not extend to particular matters of general applicability, such as rulemaking. My recusal will end with regard to the State of Oklahoma on September 23, 2017, and with regard to the Virginia House of Delegates on August 31, 2017.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct David Fotouhi, Deputy General Counsel, and Richard Albores, Associate Deputy General Counsel, to assist in screening EPA matters directed to my attention that involve these entities. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics. I will also instruct my principal subordinates that all inquiries and comments involving the entities on my recusal list should be directed to Justin and Rich without my knowledge or involvement until after my recusal period ends.

If Mr. Fotouhi or Mr. Albores determine that a particular matter will directly involve any of the entities listed on my “specific party” recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with

² See Exec. Order 13,770, Section 2(j), which provides that “‘former employer’ does not include ... State government.”

³ See Office of Government Ethics Legal Advisory 17-02 (February 6, 2017), which states that, “[w]ith respect to Executive Order 13770, ethics officials and employees may continue to rely on OGE’s prior guidance regarding Executive Order 13490 to the extent that such guidance addresses language common to both orders,” and Office of Government Ethics Legal Advisory DO-09-011 (March 26, 2009), which states that “based on discussions with the White House Counsel’s office, OGE has determined that the definition of former client is intended to exclude the same governmental entities as those excluded from the definition of former employer.”

OGC/Ethics for a determination.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my recusal or screening arrangement, I will provide a copy of the revised recusal statement to you and OGC, including OGC/Ethics.

cc: Elise Packard, Acting Principal Deputy General Counsel
Erik Baptist, Senior Deputy General Counsel
David Fotouhi, Deputy General Counsel
Richard L. Albores, Associate Deputy General Counsel
OGC Associate General Counsels and Directors
Justina Fugh, Senior Counsel for Ethics
Regional Counsels

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]
From: Fugh, Justina
Sent: Wed 10/4/2017 12:09:32 AM
Subject: RE: End of my Oklahoma recusal obligation - request for memorialization

Oh, Elise, I've got it. See the next message.

From: Minoli, Kevin
Sent: Tuesday, October 03, 2017 8:05 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>
Subject: Re: End of my Oklahoma recusal obligation - request for memorialization

Yes, we can send something around ASAP. Elise, could Shaun draft a note for me to send?
Thanks.

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Oct 3, 2017, at 6:34 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Thank you!

Sent from my iPhone

On Oct 3, 2017, at 6:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

I took a look at your recusal statement and see that it provided the exact termination dates for your "cooling off" periods with the Virginia House of Delegates and the State of Oklahoma: "My recusal will end with regard to the State of Oklahoma on

September 23, 2017, and with regard to the Virginia House of Delegates on August 31, 2017." So I don't see that there is any need for any additional documentation from OGC/Ethics. Instead, you (or someone in the front office or OGC/Ethics) can send a note to the Associates and Directors saying that your recusal obligations for these two entities have now ended.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Schwab, Justin

Sent: Tuesday, October 03, 2017 12:34 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: End of my Oklahoma recusal obligation - request for memorialization

Dear Justina,

As we have discussed earlier this year and as is reflected in my recusal statement, my

understanding is that my recusal obligations with regard to my former client(s) the State of Oklahoma/its AG office/its environmental agency, because these are state governmental entities, was not subject to the "two years from joining the federal government" period under the administration's pledge, but rather the "one-year rolling basis" period under the impartiality regulations.

The last time I provided services to Oklahoma was September 23, 2016, if I recall correctly.

Therefore, my understanding is that my recusal obligation has now ended for matters where OK is a party (other than those specific matters that I worked on).

Please confirm this and advise as to what is the best way to memorialize this and inform the rest of OGC, if necessary.

Best,

Justin

Sent from my iPhone

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin
Sent: Tue 8/22/2017 2:09:14 PM
Subject: Fwd: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Not sure if this would be a WAG and/or whether my prior employment at this firm would weigh against the propriety of my attending. Please advise.

Best,

Justin

Sent from my iPhone

Begin forwarded message:

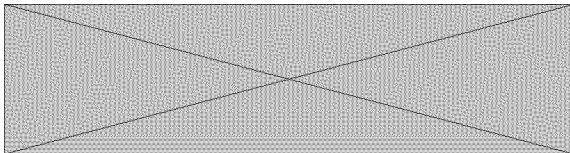
From: "BakerHostetler Alumni" <Alumni@e.bakerlaw.com>
Date: August 22, 2017 at 10:01:36 AM EDT
To: "Justin Schwab" <schwab.justin@epa.gov>
Subject: BakerHostetler Alumni Cocktail Reception | Oct. 19
Reply-To: alumni@bakerlaw.com

BakerHostetler Alumni Cocktail Reception | Oct. 19

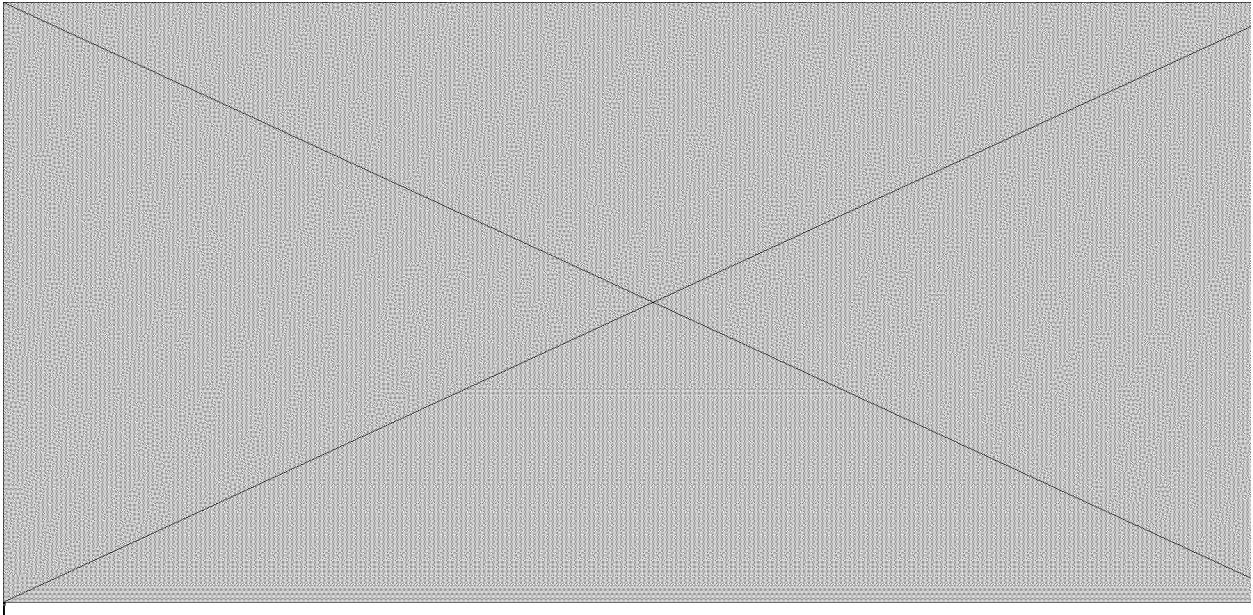
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|
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You are cordially invited to the 2017 Washington, D.C., Alumni Cocktail



You are cordially invited to the 2017 Washington, D.C., Alumni Cocktail
Reception

Thursday, October 19, 2017
5:30 – 7:30 p.m.

BakerHostetler
1050 Connecticut Avenue NW, Suite 1100
Washington, DC 20036

Cocktails and heavy hors d'oeuvres
Business attire
Spouses / significant others are welcome.

RSVP by Oct. 12 at
www.rsvpbakerlaw.com/DCAlum2017

For questions, please contact [Alex Moss](#) at 202.861.1784.

To update your personal and/or business contact information on the
BakerHostetler alumni site, please visit bakeralum.com.

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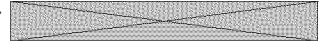
EMAIL US

alumni@bakerlaw.com

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To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin
Sent: Wed 8/2/2017 1:01:10 AM
Subject: Re: confirmation of advice

Hello Justina,

Thank you very much for this advice.

Best,

Justin

Sent from my iPhone

On Aug 1, 2017, at 8:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

This note confirms the advice that I gave you recently regarding whether the fact that an intervenor with whom you have a covered relationship has now withdrawn from a case affects your ability to now work on that case. Because you did not yourself work on the case, you do not present any concerns under bar rules. What's left is the fact that, pursuant either to the impartiality rules set forth at 5 CFR 2635.502(b)(1)(iv) or paragraph 6 of Executive Order 13,770, you have a "covered relationship" with a specific party. Your restriction dealt with that party only. Now that this party has withdrawn from the case, you no longer have any restriction and can work on the case.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Duross, Jeanne[Duross.Jeanne@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Schwab, Justin
Sent: Wed 8/30/2017 9:26:37 PM
Subject: Re: BakerHostetler Alumni Cocktail Reception | Oct. 19

Understood. Thank you.

Sent from my iPhone

On Aug 30, 2017, at 4:47 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

The only thing to add, Justin, is that we expect the cost per person of this event to be less than \$390 so you will NOT have to report the value of the gift of free attendance on your financial disclosure report. You don't know this yet (since you've only done a new entrant report) but once you get to the annual reports, you have to report on any gifts received from a non-relative that exceed \$390.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Griffo, Shannon
Sent: Wednesday, August 30, 2017 3:12 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

Hi Justin,

You may attend the BakerHostetler Alumni Cocktail Reception under the gifts based on a personal relationship exception. As you know, Paragraph 5 of the Ethics Pledge prohibits

you from accepting gifts from federally registered lobbyists or lobbying organizations. But there are a few exceptions to this lobbyist gift ban. See OGE Advisory [DO-09-007](#) (Lobbyist Gift Ban Guidance). Under the gifts based on a personal relationship exception found at 5 C.F.R. § 2635.204(b), employees may accept gifts when circumstances are clear that the gift is motivated by a personal friendship or family relationship rather than the position of the employee. The invitation below is for all firm alumni and is directed at you because of your personal affiliation with BakerHostetler, not your EPA employment.

So if you do attend, please remember not to talk about your official EPA duties with anyone at the reception. And let us know if you have any other questions.

Thanks,

Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

From: Fugh, Justina

Sent: Tuesday, August 29, 2017 1:33 PM

To: Schwab, Justin <schwab.justin@epa.gov>

Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>

Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

Hi Justin,

I missed your first entreaty, so thanks for sending it anew. I'm out of the office this afternoon, so I'm going to ask Shannon Griffo to answer your question for you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Schwab, Justin
Sent: Tuesday, August 29, 2017 1:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Re-upping this request for advice.

Best,

Justin

From: Schwab, Justin
Sent: Tuesday, August 22, 2017 10:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Not sure if this would be a WAG and/or whether my prior employment at this firm would weigh against the propriety of my attending. Please advise.

Best,

Justin

Sent from my iPhone

Begin forwarded message:

From: "BakerHostetler Alumni" <Alumni@e.bakerlaw.com>
Date: August 22, 2017 at 10:01:36 AM EDT
To: "Justin Schwab" <schwab.justin@epa.gov>
Subject: BakerHostetler Alumni Cocktail Reception | Oct. 19
Reply-To: alumni@bakerlaw.com

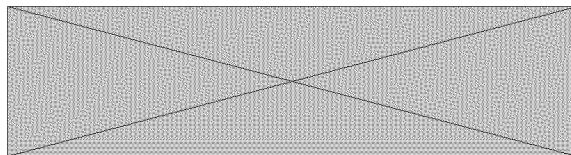
BakerHostetler Alumni Cocktail Reception | Oct. 19

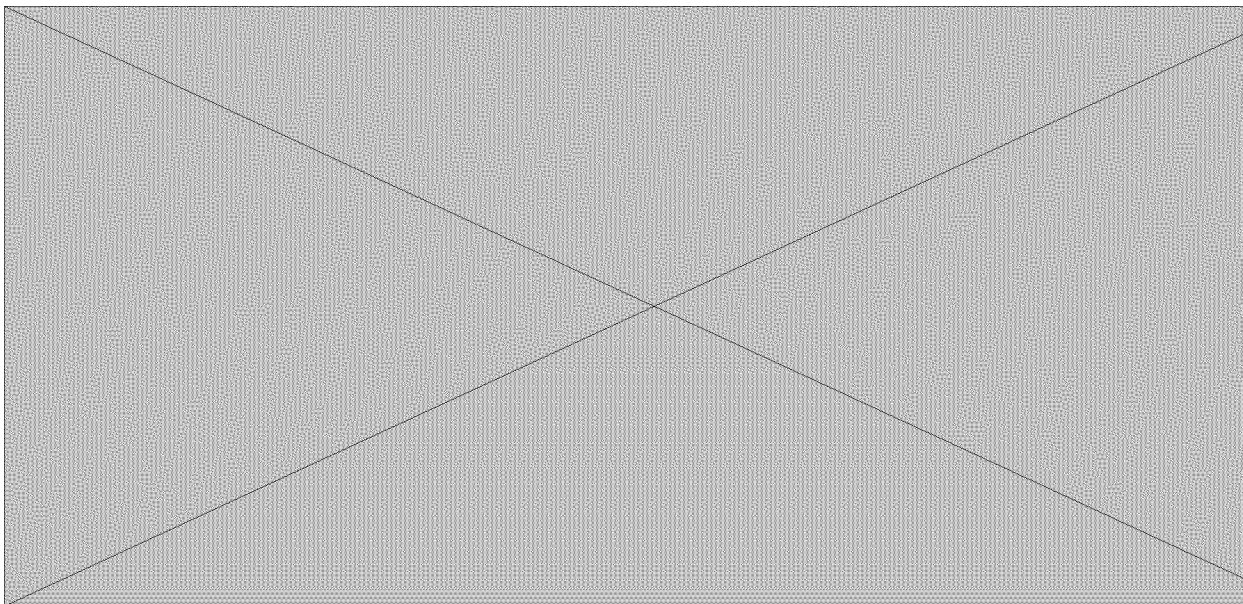
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You are cordially invited to the 2017 Washington, D.C., Alumni Cocktail Reception

Thursday, October 19, 2017

5:30 – 7:30 p.m.

BakerHostetler

1050 Connecticut Avenue NW, Suite 1100

Washington, DC 20036

Cocktails and heavy hors d'oeuvres

Business attire

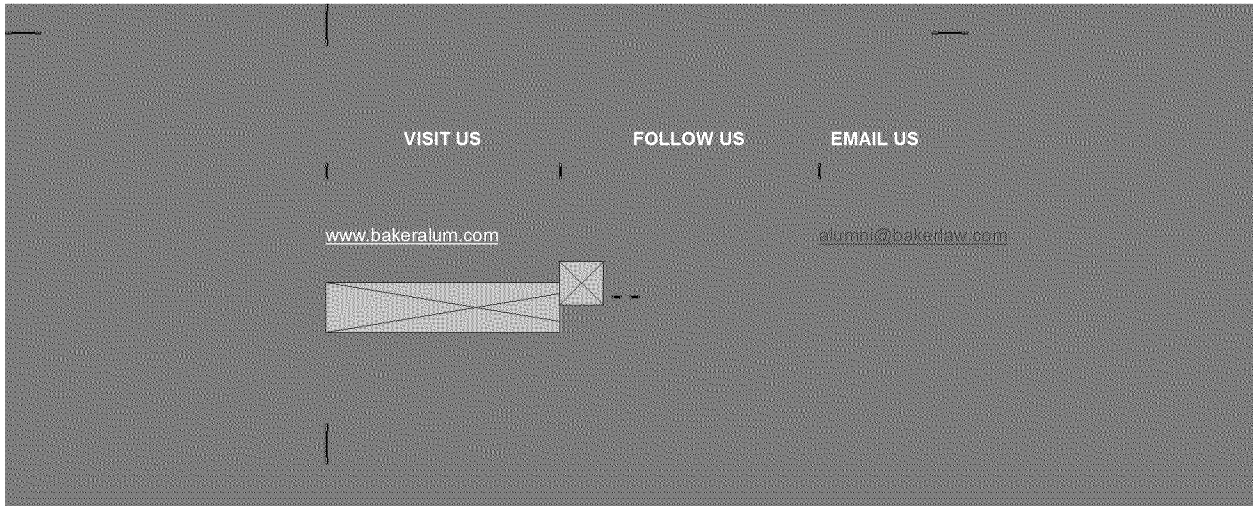
Spouses / significant others are welcome.

RSVP by Oct. 12 at

www.rsvpbakerlaw.com/DCAlum2017

For questions, please contact [Alex Moss](#) at 202.861.1784.

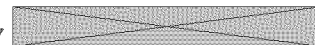
To update your personal and/or business contact information on the BakerHostetler alumni site, please visit bakeralum.com.



This email was sent by: BakerHostetler, 1050 Connecticut Avenue, NW, Suite 1100, Washington, D.C. 20036-5403 USA

If you no longer wish to receive these emails you may [unsubscribe](#) at any time.

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To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Schwab, Justin
Sent: Sat 8/5/2017 12:14:20 AM
Subject: Re: here's your revised recusal, please

Thank you! I will give a final review, print, and sign - hopefully early Monday.

Best,

Justin

Sent from my iPhone

On Aug 4, 2017, at 8:12 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

Shannon has made changes to your recusal. She did not include the State of AZ because under the impartiality rule (client = state government, so we don't need to apply the ethics pledge), your last service to that client was 11/20/15, which is more than one year ago. We decided to keep the State of OK as the State but to list the VA house of delegates as the client rather than the commonwealth itself.

If you are amenable, please print out and sign.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<Justin Schwab recusal 8_4_17.docx>

To: Griffo, Shannon[Griffo.Shannon@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Schwab, Justin
Sent: Wed 8/30/2017 7:12:41 PM
Subject: Re: BakerHostetler Alumni Cocktail Reception | Oct. 19

Thank you!

Sent from my iPhone

On Aug 30, 2017, at 3:11 PM, Griffo, Shannon <Griffo.Shannon@epa.gov> wrote:

Hi Justin,

You may attend the BakerHostetler Alumni Cocktail Reception under the gifts based on a personal relationship exception. As you know, Paragraph 5 of the Ethics Pledge prohibits you from accepting gifts from federally registered lobbyists or lobbying organizations. But there are a few exceptions to this lobbyist gift ban. See OGE Advisory [DO-09-007](#) (Lobbyist Gift Ban Guidance). Under the gifts based on a personal relationship exception found at 5 C.F.R. § 2635.204(b), employees may accept gifts when circumstances are clear that the gift is motivated by a personal friendship or family relationship rather than the position of the employee. The invitation below is for all firm alumni and is directed at you because of your personal affiliation with BakerHostetler, not your EPA employment.

So if you do attend, please remember not to talk about your official EPA duties with anyone at the reception. And let us know if you have any other questions.

Thanks,

Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

From: Fugh, Justina
Sent: Tuesday, August 29, 2017 1:33 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

Hi Justin,

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Justina

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From: Schwab, Justin
Sent: Tuesday, August 29, 2017 1:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Re-upping this request for advice.

Best,

Justin

From: Schwab, Justin
Sent: Tuesday, August 22, 2017 10:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Not sure if this would be a WAG and/or whether my prior employment at this firm would weigh against the propriety of my attending. Please advise.

Best,

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From: "BakerHostetler Alumni" <Alumni@e.bakerlaw.com>
Date: August 22, 2017 at 10:01:36 AM EDT
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Subject: BakerHostetler Alumni Cocktail Reception | Oct. 19
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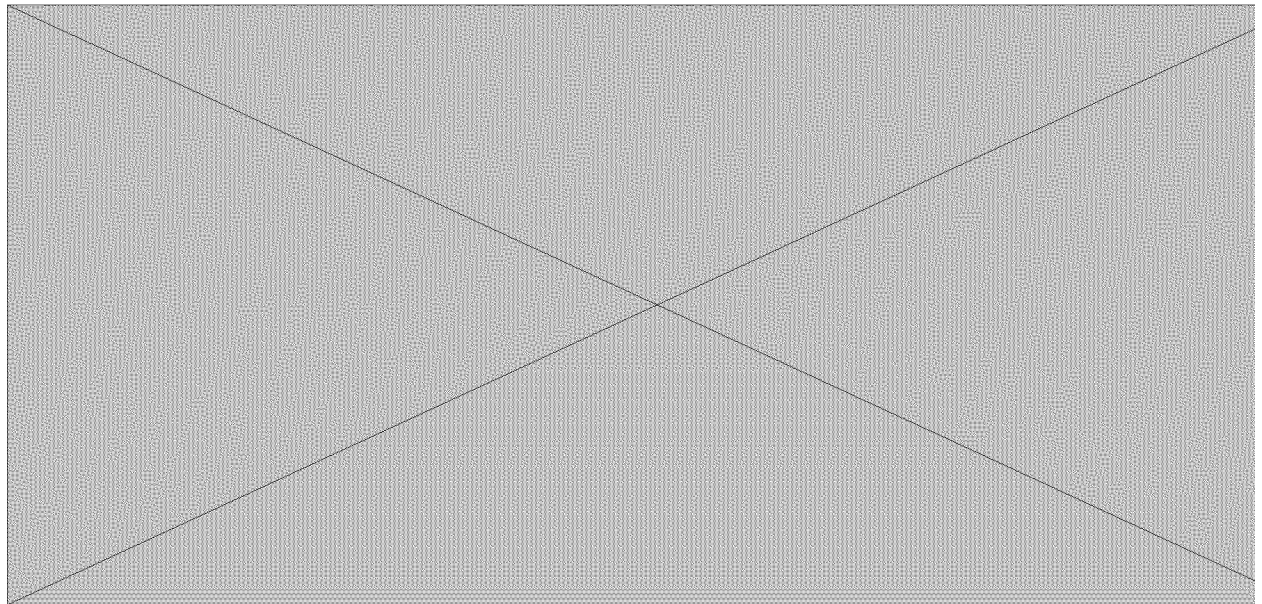
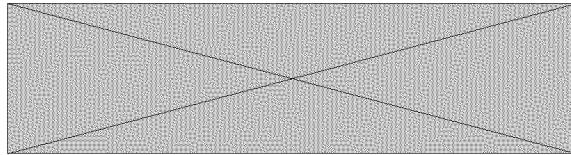
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Thursday, October 19, 2017

5:30 – 7:30 p.m.

BakerHostetler

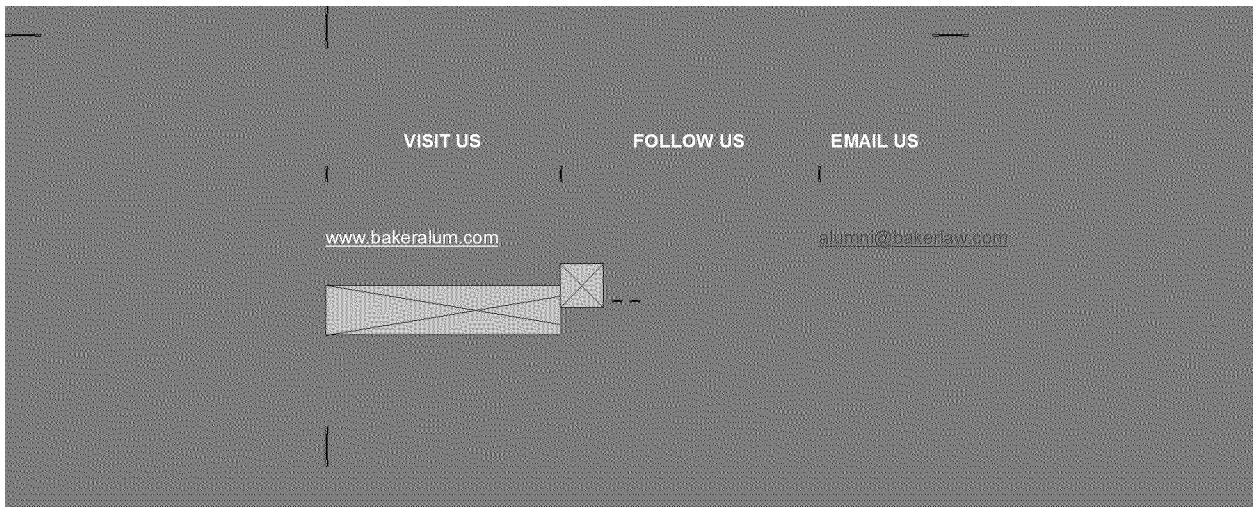
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Cocktails and heavy hors d'oeuvres
Business attire
Spouses / significant others are welcome.

RSVP by Oct. 12 at
www.rsvpbakerlaw.com/DCAlum2017

For questions, please contact [Alex Moss](#) at 202.861.1784.

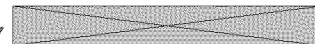
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To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Griffo, Shannon
Sent: Wed 8/30/2017 7:11:58 PM
Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

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Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

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Sent: Tuesday, August 29, 2017 1:33 PM
To: Schwab, Justin <schwab.justin@epa.gov>

Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
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Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Schwab, Justin
Sent: Tuesday, August 29, 2017 1:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
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Dear Justina,

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Justin

From: Schwab, Justin
Sent: Tuesday, August 22, 2017 10:09 AM
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Subject: Fwd: BakerHostetler Alumni Cocktail Reception | Oct. 19

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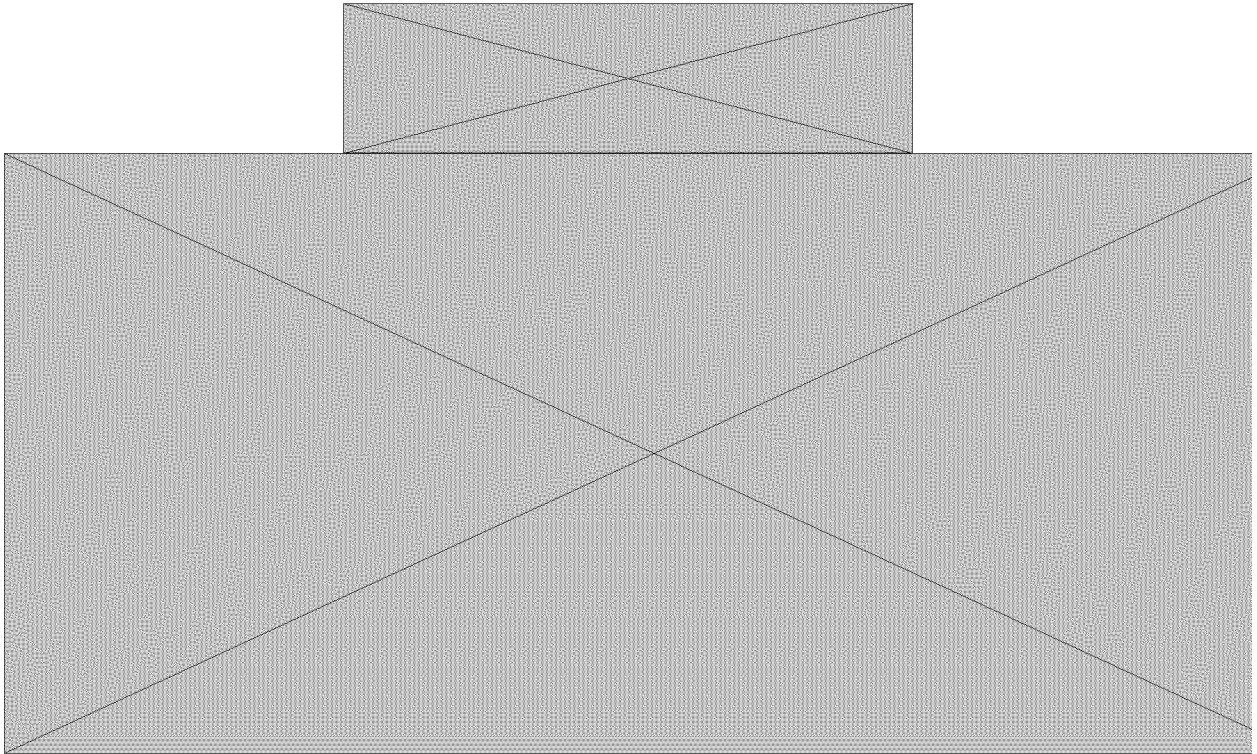
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Date: August 22, 2017 at 10:01:36 AM EDT
To: "Justin Schwab" <schwab.justin@epa.gov>
Subject: BakerHostetler Alumni Cocktail Reception | Oct. 19
Reply-To: alumni@bakerlaw.com

BakerHostetler Alumni Cocktail Reception | Oct. 19

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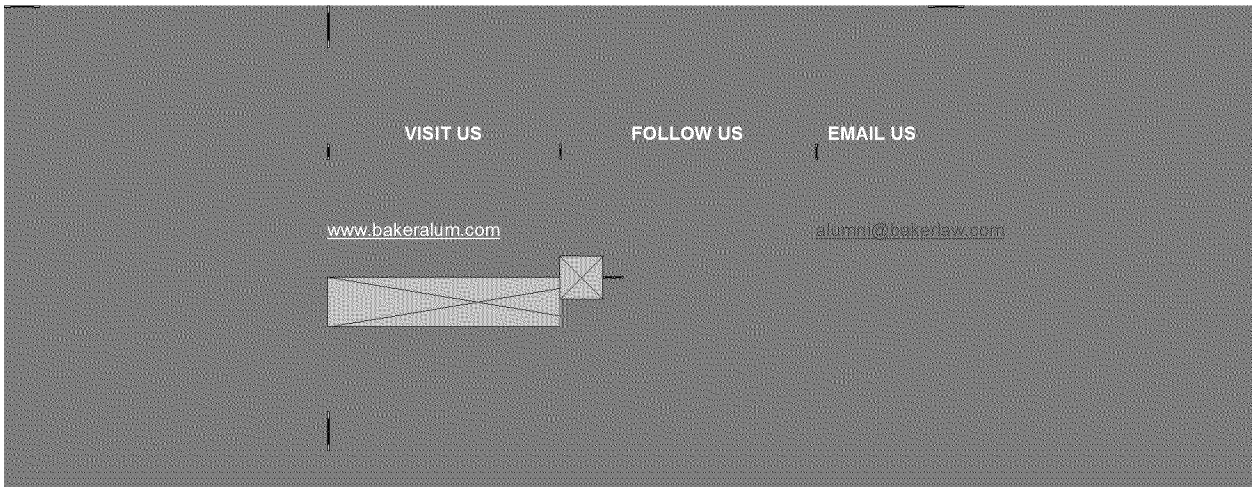
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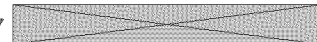
To update your personal and/or business contact information on the
BakerHostetler alumni site, please visit bakeralum.com.



This email was sent by: BakerHostetler, 1050 Connecticut Avenue, NW, Suite 1100, Washington, D.C. 20036-5403 USA

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To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin
Sent: Tue 8/1/2017 7:01:51 PM
Subject: RE: recusal statement for your review and signature
EDIT Justin Schwab recusal 7 31 17.docx

Please find redline attached. (b) (5)
(b) (5)

From: Fugh, Justina
Sent: Monday, July 31, 2017 10:42 AM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: recusal statement for your review and signature

(b) (5)

From: Schwab, Justin
Sent: Monday, July 31, 2017 10:06 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Re: recusal statement for your review and signature

Thank you for this.

My only question is whether (b) (5)
(b) (5)

Pending that question, I will review and respond as quickly as I am able.

Sent from my iPhone

On Jul 31, 2017, at 9:59 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

OGC/ethics is finalizing recusal statements for our appointees, and is also updating yours to list your former clients. We have previously advised you regarding your ethics obligations and appreciate how assiduously you have been following that advice. Please review the attached document and provide the missing information, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me. If you have any changes or questions, please let us know.

Thanks very much in advance!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<Justin Schwab recusal 7_31_17.docx>

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Mon 8/14/2017 11:01:52 PM
Subject: Re: Environmental Law Institute Award Dinner--10/18/2017

Kevin,

This is to memorialize that we spoke just now and you confirmed that I am permitted to attend this dinner on the terms offered in the letter (ie without paying for my attendance).

Best,

Justin

Sent from my iPhone

On Aug 14, 2017, at 4:45 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Please see below & attached.

I would like to attend this, if I can ethically do so -

Ex. 6 - Personal Privacy



Please advise.

Sent from my iPhone

Begin forwarded message:

From: Jacqueline Lopez <lopez@eli.org>
Date: August 14, 2017 at 4:11:03 PM EDT
To: "Schwab.justin@Epa.gov" <Schwab.justin@Epa.gov>
Cc: Melodie DeMulling <demulling@eli.org>
Subject: Environmental Law Institute Award Dinner--10/18/2017

Good afternoon,

My name is Jackie, and I am the development intern at ELI.

Last week, your formal invitation to the Environmental Law Institute's Annual Award Dinner was mailed to your office. This year, ELI will honor the Administrator for the United Nations Development Programme, Mr. Achim Steiner, for his leadership and contributions to international environmental development and sustainability.

Attached is a copy a of your letter invitation with more information. Please RSVP as soon as possible by replying to this email or emailing our Development Director, Melodie DeMulling, at demulling@eli.org.

Thank you, and we look forward to welcoming you to the Award Dinner on October 18th.

Warm regards,

Jacqueline Lopez

Development Intern

Environmental Law Institute

1730 M St., NW, Suite 700

Washington, DC 20036

lopez@eli.org

<Schwab_EPA.pdf>

To: Schwab, Justin[Schwab.Justin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]
From: Minoli, Kevin
Sent: Wed 10/4/2017 12:05:04 AM
Subject: Re: End of my Oklahoma recusal obligation - request for memorialization

Yes, we can send something around ASAP. Elise, could Shaun draft a note for me to send?
Thanks.

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Oct 3, 2017, at 6:34 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Thank you!

Sent from my iPhone

On Oct 3, 2017, at 6:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

I took a look at your recusal statement and see that it provided the exact termination dates for your "cooling off" periods with the Virginia House of Delegates and the State of Oklahoma: "My recusal will end with regard to the State of Oklahoma on September 23, 2017, and with regard to the Virginia House of Delegates on August 31, 2017." So I don't see that there is any need for any additional documentation from OGC/Ethics. Instead, you (or someone in the front office or OGC/Ethics) can send a note to the Associates and Directors saying that your recusal obligations for these two entities have now ended.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Schwab, Justin

Sent: Tuesday, October 03, 2017 12:34 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: End of my Oklahoma recusal obligation - request for memorialization

Dear Justina,

As we have discussed earlier this year and as is reflected in my recusal statement, my understanding is that my recusal obligations with regard to my former client(s) the State of Oklahoma/its AG office/its environmental agency, because these are state governmental entities, was not subject to the "two years from joining the federal government" period under the administration's pledge, but rather the "one-year rolling basis" period under the impartiality regulations.

The last time I provided services to Oklahoma was September 23, 2016, if I recall correctly.

Therefore, my understanding is that my recusal obligation has now ended for matters where OK is a party (other than those specific matters that I worked on).

Please confirm this and advise as to what is the best way to memorialize this and inform the rest of OGC, if necessary.

Best,

Justin

Sent from my iPhone

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Mon 8/14/2017 8:45:13 PM
Subject: Fwd: Environmental Law Institute Award Dinner--10/18/2017
[Schwab EPA.pdf](#)
[ATT00001.htm](#)

Please see below & attached.

I would like to attend this, if I can ethically do so -

Ex. 6 - Personal Privacy

Please advise.

Sent from my iPhone

Begin forwarded message:

From: Jacqueline Lopez <lopez@eli.org>
Date: August 14, 2017 at 4:11:03 PM EDT
To: "Schwab.justin@Epa.gov" <Schwab.justin@Epa.gov>
Cc: Melodie DeMulling <demulling@eli.org>
Subject: Environmental Law Institute Award Dinner--10/18/2017

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Last week, your formal invitation to the Environmental Law Institute's Annual Award Dinner was mailed to your office. This year, ELI will honor the Administrator for the United Nations Development Programme, Mr. Achim Steiner, for his leadership and contributions to international environmental development and sustainability.

Attached is a copy of your letter invitation with more information. Please RSVP as soon as possible by replying to this email or emailing our Development Director, Melodie DeMulling, at demulling@eli.org.

Thank you, and we look forward to welcoming you to the Award Dinner on October 18th.

Warm regards,

Jacqueline Lopez

Development Intern

Environmental Law Institute

1730 M St., NW, Suite 700

Washington, DC 20036

lopez@eli.org

August 8th, 2017

Mr. Justin Schwab
Deputy Genral Counsel
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Mr. Schwab,

This is a non-transferable complimentary invitation to the Environmental Law Institute's 2017 Award Dinner honoring Achim Steiner, Administrator for the United Nations Development Programme. The Dinner will be held on October 18, 2017 at the Omni Shoreham Hotel in Washington, D.C. Registration will begin at 5:00 p.m., with a pre-dinner reception beginning at 5:30, and dinner to follow at 7:15 p.m.

Attendance at ELI's Award Dinner has not been prohibited in the past by ethical guidance from United States government departments; however, please consult as appropriate within your State agency prior to accepting this invitation. Should ethics rules or conflict of interest policies require you to pay, you may send a check (payable to the Environmental Law Institute) to 1730 M Street, NW, Suite 700, Washington, D.C. 20036) in the amount of \$200 to cover the actual value of the discounted government/academic/nonprofit rate ticket.

We hope you'll be able to join us for Washington's premier annual event for environmental professionals from around the country. Please RSVP as soon as possible to me at demulling@eli.org or 202-939-3808 regarding your availability to attend the Award Dinner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melodie DeMulling', with a stylized, flowing script.

Melodie DeMulling
Development Director

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Schwab, Justin
Sent: Tue 10/3/2017 10:34:40 PM
Subject: Re: End of my Oklahoma recusal obligation - request for memorialization

Thank you!

Sent from my iPhone

> On Oct 3, 2017, at 6:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

>

> Hi Justin,

> I took a look at your recusal statement and see that it provided the exact termination dates for your "cooling off" periods with the Virginia House of Delegates and the State of Oklahoma: "My recusal will end with regard to the State of Oklahoma on September 23, 2017, and with regard to the Virginia House of Delegates on August 31, 2017." So I don't see that there is any need for any additional documentation from OGC/Ethics. Instead, you (or someone in the front office or OGC/Ethics) can send a note to the Associates and Directors saying that your recusal obligations for these two entities have now ended.

> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>

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>

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>

> -----Original Message-----

> From: Schwab, Justin

> Sent: Tuesday, October 03, 2017 12:34 PM

> To: Fugh, Justina <Fugh.Justina@epa.gov>

> Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>

> Subject: End of my Oklahoma recusal obligation - request for memorialization

>

> Dear Justina,

>

> As we have discussed earlier this year and as is reflected in my recusal statement, my understanding is that my recusal obligations with regard to my former client(s) the State of Oklahoma/its AG office/its environmental agency, because these are state governmental entities, was not subject to the "two years from joining the federal government" period under the administration's pledge, but rather the "one-year rolling basis" period under the impartiality regulations.

>

> The last time I provided services to Oklahoma was September 23, 2016, if I recall correctly.

>

> Therefore, my understanding is that my recusal obligation has now ended for matters where OK is a party (other than those specific matters that I worked on).

>

> Please confirm this and advise as to what is the best way to memorialize this and inform the rest of OGC, if necessary.

>

> Best,

>

> Justin

>
> Sent from my iPhone

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin
Sent: Tue 7/25/2017 7:19:47 PM
Subject: Recusal question - amicus?

Dear Justina,

If a party with whom I have a covered relationship is in a matter, but only as an amicus, and if I never worked on that matter while in the firm, may I participate in the matter now?

Best,

Justin

Sent from my iPhone

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Tue 10/3/2017 4:34:28 PM
Subject: End of my Oklahoma recusal obligation - request for memorialization

Dear Justina,

As we have discussed earlier this year and as is reflected in my recusal statement, my understanding is that my recusal obligations with regard to my former client(s) the State of Oklahoma/its AG office/its environmental agency, because these are state governmental entities, was not subject to the "two years from joining the federal government" period under the administration's pledge, but rather the "one-year rolling basis" period under the impartiality regulations.

The last time I provided services to Oklahoma was September 23, 2016, if I recall correctly.

Therefore, my understanding is that my recusal obligation has now ended for matters where OK is a party (other than those specific matters that I worked on).

Please confirm this and advise as to what is the best way to memorialize this and inform the rest of OGC, if necessary.

Best,

Justin

Sent from my iPhone

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Schwab, Justin
Sent: Fri 8/11/2017 8:43:08 PM
Subject: Re: hey, wait a minute ...

Thank you!

Sent from my iPhone

On Aug 11, 2017, at 3:37 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Shannon and I are exchanging emails about our thoughts, and I'm giving up. I am off next week, so she'll continue to think about this for you. My brain is fried!

From: Schwab, Justin
Sent: Friday, August 11, 2017 3:00 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: Re: hey, wait a minute ...

Thank you. I have one follow up (for now):

"

•■■■■■■■■ If the subject matter of the meeting is a matter of general applicability, and is attended by more than five entities, then you may attend, even if UARG is represented by the Southern Company employee. "

So if (hypothetically) UARG, Southern, and four other UARG members have representatives present, and if I do not have any issue with UARG or with the four other members, (and if the subject is of general applicability), I may attend?

Sent from my iPhone

On Aug 11, 2017, at 2:56 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

You came by yesterday and raised the following hypothetical with us:

One of your former clients is Southern Company, which is also a member of UARG, which is a trade association. What are your ethical obligations if UARG comes to EPA for a discussion, and one of the UARG representatives is an employee of Southern?

When you were in my office, I answered your question by making an assumption about the subject matter of the meeting and the number of attendees. Shannon pointed out to me that I really should make sure that my assumption was correct. So let me provide you with some clarity:

- If the subject matter of the meeting is a specific party matter, then you cannot attend.

- If the subject matter is a matter of general applicability but only UARG (and the Southern Company employee) is present, then you cannot attend.

-

Enjoy your time off!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Schwab, Justin
Sent: Tue 9/5/2017 9:32:11 PM
Subject: RE: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017

Fortunately this is **Ex. 6 - Personal Privacy** Thank you for the response!!

From: Fugh, Justina
Sent: Tuesday, September 5, 2017 4:43 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017

Justin, I am horrified, I say, HORRIFIED that this organization does not know how to spell the word *hors d'oeuvres*! They wrote "hors d'ouerves" ... seriously?? Does no one spell check anymore? I don't think I can allow you to attend this event given their blatant disregard of the social niceties.

Yes, you may attend as we have no issues about federally registered lobbyists with this event. But remember, you must pay for any transportation costs yourself. You can't ask EPA to pick up those costs.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Schwab, Justin
Sent: Tuesday, September 05, 2017 3:55 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Fwd: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017

Good afternoon!

This fits my understanding of a WAG, but I thought I should check to confirm. Please advise whether I may attend.

Best,

Justin

Sent from my iPhone

Begin forwarded message:

From: Andy Popper <apopper@wcl.american.edu>
Date: September 5, 2017 at 3:51:14 PM EDT
To: Undisclosed recipients;;
Subject: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017
Reply-To: Diana Sawyer <dsawyer@wcl.american.edu>

If you are unable to view the image below, please open the attached PDF.

If you have any issues accessing the registration form, please email lawandgov@wcl.american.edu.

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Schwab, Justin
Sent: Fri 8/11/2017 6:59:37 PM
Subject: Re: hey, wait a minute ...

Thank you. I have one follow up (for now):

"

- If the subject matter of the meeting is a matter of general applicability, and is attended by more than five entities, then you may attend, even if UARG is represented by the Southern Company employee. "

So if (hypothetically) UARG, Southern, and four other UARG members have representatives present, and if I do not have any issue with UARG or with the four other members, (and if the subject is of general applicability), I may attend?

Sent from my iPhone

On Aug 11, 2017, at 2:56 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

You came by yesterday and raised the following hypothetical with us:

One of your former clients is Southern Company, which is also a member of UARG, which is a trade association. What are your ethical obligations if UARG comes to EPA for a discussion, and one of the UARG representatives is an employee of Southern?

When you were in my office, I answered your question by making an assumption about the subject matter of the meeting and the number of attendees. Shannon pointed out to me that I really should make sure that my assumption was correct. So let me provide you with some clarity:

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-

Enjoy your time off!

Justina

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The Program on Law and Government at
American University Washington College of Law
Invites You to Join us for a

Federal Government General Counsels' Reception and Networking Event

Fireside chat with

Hon. Stephen Williams, U.S. Court of Appeals for the D.C. Circuit

Hon. Jay Plager, U.S. Court of Appeals for the Federal Circuit

Moderated by:

Andrew Popper, Ann Loeb Bronfman

Distinguished Professor of Law and Government

Welcoming remarks by:

Fernando Laguarda, Director, Program on Law and Government

Wednesday, October 4, 2017

Reception and heavy hors d'ouerves, 6:30 p.m.

Fireside chat and networking to follow

American University Washington College of Law

Claudio Grossman Hall

4300 Nebraska, Ave. NW Washington, DC

There is no charge for registration, but RSVPs are required.
To RSVP, please visit bit.ly/auwclGeneralCounsels2017.

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Griffo, Shannon
Sent: Thur 8/24/2017 7:11:09 PM
Subject: RE: hey, wait a minute ...

Justin,

I apologize for the delay in responding. Justina and I have had a few follow-up conversations and here's our collective thoughts on the hypothetical below and why as a prudential matter, you should not participate at any such meeting if only UARG, UARG members, and your former client acting as a UARG member are present -

First, remember that Paragraph 6 of the Ethics Pledge expands the definition of specific party matters "to include any meeting or other communication with a former employee or former client relating to the performance of the appointee's official duties." But this expanded party matter definition has a two-part exception if the communication (1) is about a particular matter of general applicability (rulemaking) AND (2) participation in the meeting is open to all interested parties (more than 5). And although the exception refers to particular matters of general applicability, it is also intended to cover communications and meetings regarding policies that do not constitute particular matters. See OGE's advisory [DO-09-011](#).

So let's take a closer look at what "open to all interested parties" means and UARG's participation in such a meeting as you've described below. OGE's advisory states that "such meetings do not have to be open to every corner, but should include a multiplicity of parties." If the invitation to meet with EPA only goes to UARG, I'm not certain that we can say the meeting is open to all interested parties or includes a multiplicity of parties. If UARG comes in to discuss a particular matter of general applicability, it is likely that this organization of electric generating companies and national trade associations is there participating on behalf of its members collectively and publicly voicing the views of its members on matters of common interest. The individuals present at such a meeting are sharing that united view to EPA as the UARG, although some are participating as UARG members on behalf of their individual companies.

As a prudential matter, you should err on the side of caution and not participate in any such meetings if only UARG and UARG members are present and one of those members is your former client. We recommend that you continue to consult with OGC/Ethics when determining whether a specific forum qualifies as a meeting or other event that is "open to all interested parties."

Please let us know if you have any other questions.

Thanks,

Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

From: Fugh, Justina

Sent: Friday, August 11, 2017 3:37 PM

To: Schwab, Justin <schwab.justin@epa.gov>

Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>

Subject: RE: hey, wait a minute ...

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Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>

Subject: Re: hey, wait a minute ...

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Enjoy your time off!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Schwab, Justin
Sent: Mon 7/31/2017 2:47:25 PM
Subject: Re: recusal statement for your review and signature

Thank you. I will review and (b) (5) [REDACTED]
although I am open to your input on that question, obviously.

Sent from my iPhone

On Jul 31, 2017, at 10:42 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

(b) (5) [REDACTED]

From: Schwab, Justin
Sent: Monday, July 31, 2017 10:06 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Re: recusal statement for your review and signature

Thank you for this.

My only question is whether (b) (5) [REDACTED]
(b) (5) [REDACTED]

Pending that question, I will review and respond as quickly as I am able.

Sent from my iPhone

On Jul 31, 2017, at 9:59 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

OGC/ethics is finalizing recusal statements for our appointees, and is also updating yours to list your former clients. We have previously advised you regarding your ethics obligations and appreciate how assiduously you have been following that advice. Please review the attached document and provide the missing information, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me. If you have any changes or questions, please let us know.

Thanks very much in advance!
Justina

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<Justin Schwab recusal 7_31_17.docx>

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Schwab, Justin
Sent: Mon 7/31/2017 2:05:49 PM
Subject: Re: recusal statement for your review and signature

Thank you for this.

My only question is whether (b) (5)
(b) (5)

Pending that question, I will review and respond as quickly as I am able.

Sent from my iPhone

On Jul 31, 2017, at 9:59 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

OGC/ethics is finalizing recusal statements for our appointees, and is also updating yours to list your former clients. We have previously advised you regarding your ethics obligations and appreciate how assiduously you have been following that advice. Please review the attached document and provide the missing information, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me. If you have any changes or questions, please let us know.

Thanks very much in advance!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for
the zip code) | phone 202-564-1786 | fax 202-564-1772

<Justin Schwab recusal 7_31_17.docx>

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Duross, Jeanne[Duross.Jeanne@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Wed 8/30/2017 8:47:40 PM
Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

The only thing to add, Justin, is that we expect the cost per person of this event to be less than \$390 so you will NOT have to report the value of the gift of free attendance on your financial disclosure report. You don't know this yet (since you've only done a new entrant report) but once you get to the annual reports, you have to report on any gifts received from a non-relative that exceed \$390.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Griffo, Shannon
Sent: Wednesday, August 30, 2017 3:12 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

Hi Justin,

You may attend the BakerHostetler Alumni Cocktail Reception under the gifts based on a personal relationship exception. As you know, Paragraph 5 of the Ethics Pledge prohibits you from accepting gifts from federally registered lobbyists or lobbying organizations. But there are a few exceptions to this lobbyist gift ban. See OGE Advisory [DO-09-007](#) (Lobbyist Gift Ban Guidance). Under the gifts based on a personal relationship exception found at 5 C.F.R. § 2635.204(b), employees may accept gifts when circumstances are clear that the gift is motivated by a personal friendship or family relationship rather than the position of the employee. The invitation below is for all firm alumni and is directed at you because of your personal affiliation with BakerHostetler, not your EPA employment.

So if you do attend, please remember not to talk about your official EPA duties with anyone at the reception. And let us know if you have any other questions.

Thanks,

Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

From: Fugh, Justina

Sent: Tuesday, August 29, 2017 1:33 PM

To: Schwab, Justin <schwab.justin@epa.gov>

Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>

Subject: RE: BakerHostetler Alumni Cocktail Reception | Oct. 19

Hi Justin,

I missed your first entreaty, so thanks for sending it anew. I'm out of the office this afternoon, so I'm going to ask Shannon Griffo to answer your question for you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Schwab, Justin
Sent: Tuesday, August 29, 2017 1:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Re-upping this request for advice.

Best,

Justin

From: Schwab, Justin
Sent: Tuesday, August 22, 2017 10:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: BakerHostetler Alumni Cocktail Reception | Oct. 19

Dear Justina,

Not sure if this would be a WAG and/or whether my prior employment at this firm would weigh against the propriety of my attending. Please advise.

Best,

Justin

Sent from my iPhone

Begin forwarded message:

From: "BakerHostetler Alumni" <Alumni@e.bakerlaw.com>
Date: August 22, 2017 at 10:01:36 AM EDT
To: "Justin Schwab" <schwab.justin@epa.gov>
Subject: BakerHostetler Alumni Cocktail Reception | Oct. 19
Reply-To: alumni@bakerlaw.com

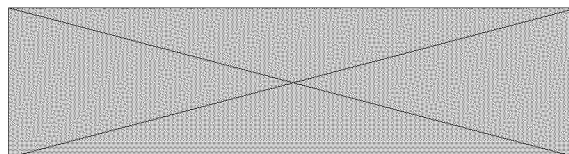
BakerHostetler Alumni Cocktail Reception | Oct. 19

If you cannot view this email correctly, please [view it online](#)

To ensure future delivery, please add Alumni@e.bakerlaw.com to your safe senders list.

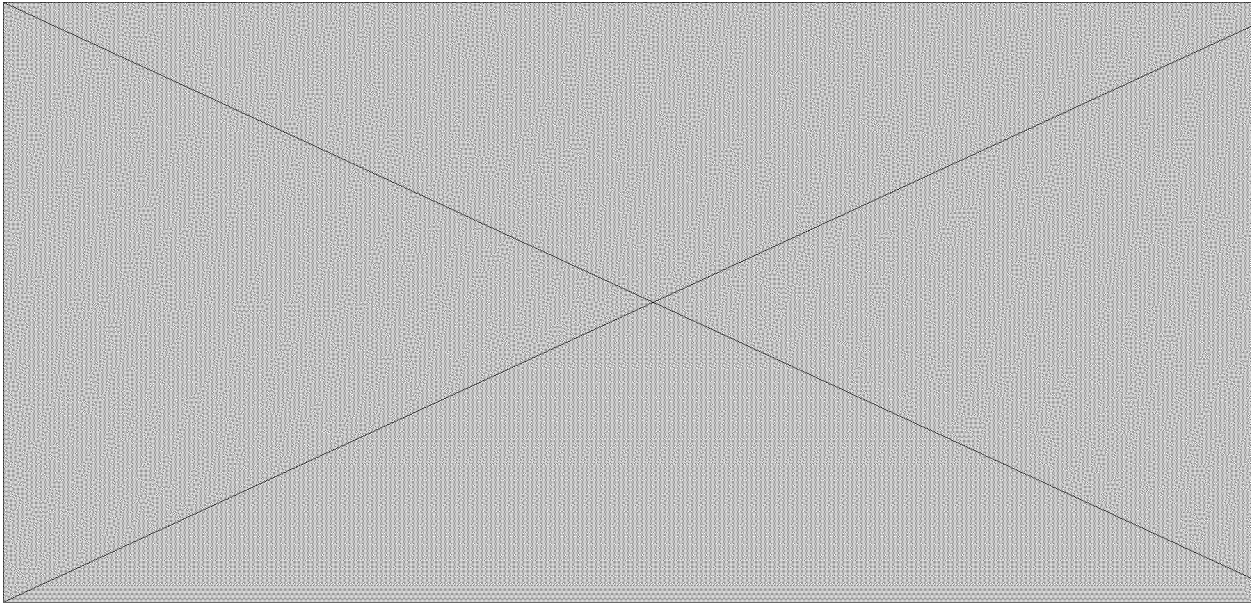
|

,



|

,



You are cordially invited to the 2017 Washington, D.C., Alumni Cocktail Reception

Thursday, October 19, 2017
5:30 – 7:30 p.m.

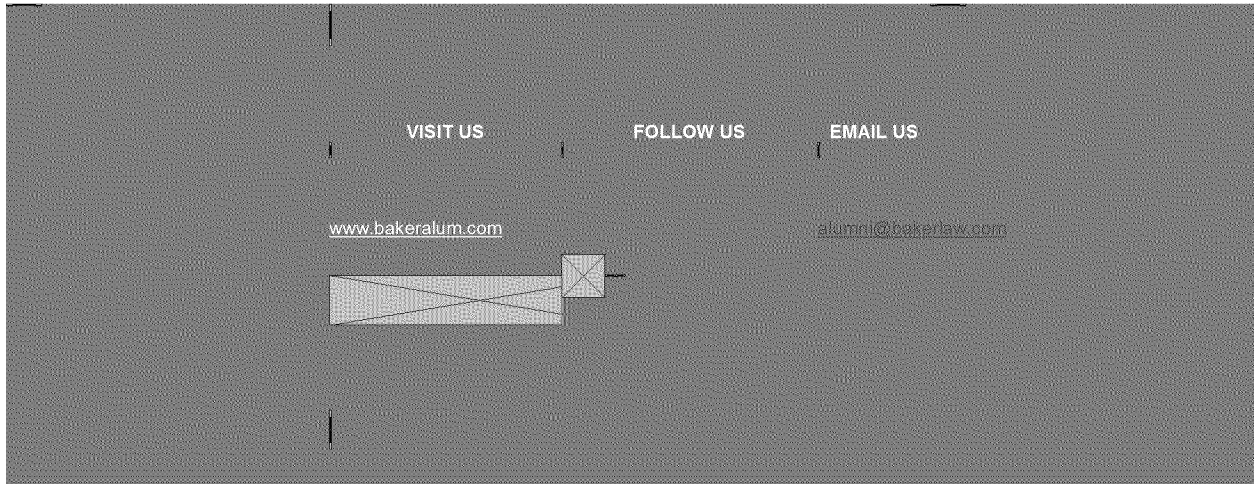
BakerHostetler
1050 Connecticut Avenue NW, Suite 1100
Washington, DC 20036

Cocktails and heavy hors d'oeuvres
Business attire
Spouses / significant others are welcome.

RSVP by Oct. 12 at
www.rsvpbakerlaw.com/DCAlum2017

For questions, please contact [Alex Moss](#) at 202.861.1784.

To update your personal and/or business contact information on the BakerHostetler alumni site, please visit bakeralum.com.



This email was sent by: BakerHostetler, 1050 Connecticut Avenue, NW, Suite 1100, Washington, D.C. 20036-5403 USA

If you no longer wish to receive these emails you may [unsubscribe](#) at any time.

© 2017



To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Sat 8/5/2017 12:12:25 AM
Subject: here's your revised recusal, please
Justin Schwab recusal 8 4 17.docx

Hi Justin,

Shannon has made changes to your recusal. She did not include the State of AZ because under the impartiality rule (client = state government, so we don't need to apply the ethics pledge), your last service to that client was 11/20/15, which is more than one year ago. We decided to keep the State of OK as the State but to list the VA house of delegates as the client rather than the commonwealth itself.

If you are amenable, please print out and sign.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Tue 10/3/2017 10:32:59 PM
Subject: RE: End of my Oklahoma recusal obligation - request for memorialization

Hi Justin,

I took a look at your recusal statement and see that it provided the exact termination dates for your "cooling off" periods with the Virginia House of Delegates and the State of Oklahoma: "My recusal will end with regard to the State of Oklahoma on September 23, 2017, and with regard to the Virginia House of Delegates on August 31, 2017." So I don't see that there is any need for any additional documentation from OGC/Ethics. Instead, you (or someone in the front office or OGC/Ethics) can send a note to the Associates and Directors saying that your recusal obligations for these two entities have now ended.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Schwab, Justin
Sent: Tuesday, October 03, 2017 12:34 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: End of my Oklahoma recusal obligation - request for memorialization

Dear Justina,

As we have discussed earlier this year and as is reflected in my recusal statement, my understanding is that my recusal obligations with regard to my former client(s) the State of Oklahoma/its AG office/its environmental agency, because these are state governmental entities, was not subject to the "two years from joining the federal government" period under the administration's pledge, but rather the "one-year rolling basis" period under the impartiality regulations.

The last time I provided services to Oklahoma was September 23, 2016, if I recall correctly.

Therefore, my understanding is that my recusal obligation has now ended for matters where OK is a party (other than those specific matters that I worked on).

Please confirm this and advise as to what is the best way to memorialize this and inform the rest of OGC, if necessary.

Best,

Justin

Sent from my iPhone

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Tue 9/5/2017 8:42:58 PM
Subject: RE: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017

Justin, I am horrified, I say, HORRIFIED that this organization does not know how to spell the word *hors d'oeuvres*! They wrote "hors d'ouerves" ... seriously?? Does no one spell check anymore? I don't think I can allow you to attend this event given their blatant disregard of the social niceties.

Yes, you may attend as we have no issues about federally registered lobbyists with this event. But remember, you must pay for any transportation costs yourself. You can't ask EPA to pick up those costs.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Schwab, Justin
Sent: Tuesday, September 05, 2017 3:55 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Fwd: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017

Good afternoon!

This fits my understanding of a WAG, but I thought I should check to confirm. Please advise whether I may attend.

Best,

Justin

Sent from my iPhone

Begin forwarded message:

From: Andy Popper <apopper@wcl.american.edu>
Date: September 5, 2017 at 3:51:14 PM EDT
To: Undisclosed recipients;;
Subject: Federal Government General Counsels' Reception and Networking Event hosted by American University Washington College of Law - October 4, 2017
Reply-To: Diana Sawyer <dsawyer@wcl.american.edu>

If you are unable to view the image below, please open the attached PDF.

If you have any issues accessing the registration form, please email lawandgov@wcl.american.edu.

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Fugh, Justina
Sent: Fri 8/11/2017 6:56:03 PM
Subject: hey, wait a minute ...

Hi Justin,

You came by yesterday and raised the following hypothetical with us:

One of your former clients is Southern Company, which is also a member of UARG, which is a trade association. What are your ethical obligations if UARG comes to EPA for a discussion, and one of the UARG representatives is an employee of Southern?

When you were in my office, I answered your question by making an assumption about the subject matter of the meeting and the number of attendees. Shannon pointed out to me that I really should make sure that my assumption was correct. So let me provide you with some clarity:

- If the subject matter of the meeting is a specific party matter, then you cannot attend.
- If the subject matter is a matter of general applicability but only UARG (and the Southern Company employee) is present, then you cannot attend.
- If the subject matter of the meeting is a matter of general applicability, and is attended by more than five entities, then you may attend, even if UARG is represented by the Southern Company employee.

Enjoy your time off!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Mon 7/31/2017 2:42:27 PM
Subject: RE: recusal statement for your review and signature

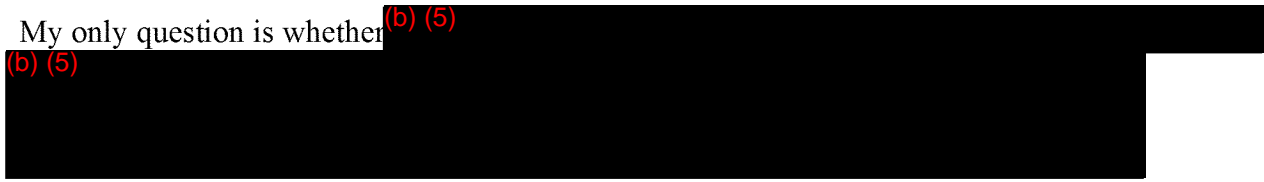
(b) (5)

A large black rectangular redaction box covering several lines of text.

From: Schwab, Justin
Sent: Monday, July 31, 2017 10:06 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Re: recusal statement for your review and signature

Thank you for this.

My only question is whether (b) (5)

A large black rectangular redaction box covering several lines of text.

Pending that question, I will review and respond as quickly as I am able.

Sent from my iPhone

On Jul 31, 2017, at 9:59 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

OGC/ethics is finalizing recusal statements for our appointees, and is also updating yours to list your former clients. We have previously advised you regarding your ethics obligations and appreciate how assiduously you have been following that advice. Please review the attached document and provide the missing information, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me. If you have any changes or questions, please let us know.

Thanks very much in advance!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<Justin Schwab recusal 7_31_17.docx>

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Mon 7/31/2017 1:59:39 PM
Subject: recusal statement for your review and signature
Justin Schwab recusal 7 31 17.docx

Hi there,

OGC/ethics is finalizing recusal statements for our appointees, and is also updating yours to list your former clients. We have previously advised you regarding your ethics obligations and appreciate how assiduously you have been following that advice. Please review the attached document and provide the missing information, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me. If you have any changes or questions, please let us know.

Thanks very much in advance!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Baptist, Erik[baptist.erik@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Tue 8/15/2017 8:25:53 PM
Subject: Re: New Recusal Info for Justin Re the Mexichem Litigation

Thank you.

Sent from my iPhone

On Aug 15, 2017, at 3:33 PM, Baptist, Erik <baptist.erik@epa.gov> wrote:

Will do.

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

From: Schwab, Justin

Sent: Tuesday, August 15, 2017 3:15 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>

Subject: Re: New Recusal Info for Justin Re the Mexichem Litigation

If one or both of you could inform Jon Brightbill that I am no longer involving myself in this matter, I would appreciate it.

(If it is not a problem for me to tell him that, I am of course happy to do so.)

Sent from my iPhone

On Aug 15, 2017, at 2:28 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Hi Folks- Earlier this afternoon we learned that Honeywell, one of the intervenors in *Mexichem. v. EPA* (challenge to 2015 SNAP rule) (D.C. Cir. No. 15-1328), has retained BakerHostetler to assist Arnold & Porter as their representatives in the case moving forward and they will be entering an appearance in the litigation shortly. The result of that is that Justin will be recused from this litigation from this point forward, unless the circumstances change again. In terms of the lead Deputy GC, that will now move to Erik.

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Schwab, Justin[schwab.justin@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Baptist, Erik
Sent: Tue 8/15/2017 7:33:21 PM
Subject: RE: New Recusal Info for Justin Re the Mexichem Litigation

Will do.

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

From: Schwab, Justin
Sent: Tuesday, August 15, 2017 3:15 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Subject: Re: New Recusal Info for Justin Re the Mexichem Litigation

If one or both of you could inform Jon Brightbill that I am no longer involving myself in this matter, I would appreciate it.

(If it is not a problem for me to tell him that, I am of course happy to do so.)

Sent from my iPhone

On Aug 15, 2017, at 2:28 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Hi Folks- Earlier this afternoon we learned that Honeywell, one of the intervenors in

Mexichem. v. EPA (challenge to 2015 SNAP rule) (D.C. Cir. No. 15-1328), has retained BakerHostetler to assist Arnold & Porter as their representatives in the case moving forward and they will be entering an appearance in the litigation shortly. The result of that is that Justin will be recused from this litigation from this point forward, unless the circumstances change again. In terms of the lead Deputy GC, that will now move to Erik.

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Fotouhi, David[fotouhi.david@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Wed 8/2/2017 1:16:03 AM
Subject: Re: I can now participate in Juliana: confirmation of advice

Thanks.

Sent from my iPhone

On Aug 1, 2017, at 9:14 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Brian Doster, Zach Pilchen, Melina Williams, and Karen Palmer are the key attorneys.

Jeff Wood and Corinne Snow are point in ENRD's front office.

Let's discuss the status tomorrow.

Sent from my iPhone

On Aug 1, 2017, at 9:03 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

See below.

My understanding is that AFPM has been dismissed from the case.

Accordingly, I can take this one back from David.

David, please let me know with whom you have been working on this matter.

Sent from my iPhone

Begin forwarded message:

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: August 1, 2017 at 8:44:20 PM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Subject: confirmation of advice

Hi Justin,

This note confirms the advice that I gave you recently regarding whether the fact that

an intervenor with whom you have a covered relationship has now withdrawn from a case affects your ability to now work on that case. Because you did not yourself work on the case, you do not present any concerns under bar rules. What's left is the fact that, pursuant either to the impartiality rules set forth at 5 CFR 2635.502(b)(1)(iv) or paragraph 6 of Executive Order 13,770, you have a "covered relationship" with a specific party. Your restriction dealt with that party only. Now that this party has withdrawn from the case, you no longer have any restriction and can work on the case.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Wed 8/2/2017 1:03:54 AM
Subject: I can now participate in Juliana: confirmation of advice

See below.

My understanding is that AFPM has been dismissed from the case.

Accordingly, I can take this one back from David.

David, please let me know with whom you have been working on this matter.

Sent from my iPhone

Begin forwarded message:

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: August 1, 2017 at 8:44:20 PM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Subject: confirmation of advice

Hi Justin,

This note confirms the advice that I gave you recently regarding whether the fact that an intervenor with whom you have a covered relationship has now withdrawn from a case affects your ability to now work on that case. Because you did not yourself work on the case, you do not present any concerns under bar rules. What's left is the fact that, pursuant either to the impartiality rules set forth at 5 CFR 2635.502(b)(1)(iv) or paragraph 6 of Executive Order 13,770, you have a "covered relationship" with a specific party. Your restriction dealt with that party only. Now that this party has withdrawn from the case, you no longer have any restriction and can work on the case.

Justina

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To: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Tue 8/15/2017 10:10:10 PM
Subject: Title VI recusal issues

Dear Kevin,

I assume that my former employer's engagement is only with respect to the Mexichem case/612 rule, and not the 608 refrigerant handling rule that is the subject of a pending NEDA-CAP challenge. Do you know anything to the contrary?

Best,

Justin

Sent from my iPhone

To: Schwab, Justin[schwab.justin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schmidt, Lorie (Schmidt.Lorie@epa.gov)[Schmidt.Lorie@epa.gov]; Gautam Srinivasan[Srinivasan.Gautam@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; McConkey, Diane[Mcconkey.Diane@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
Cc: Fugh, Justina (Fugh.Justina@epa.gov)[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Tue 8/15/2017 6:28:12 PM
Subject: New Recusal Info for Justin Re the Mexichem Litigation

Hi Folks- Earlier this afternoon we learned that Honeywell, one of the intervenors in *Mexichem. v. EPA* (challenge to 2015 SNAP rule) (D.C. Cir. No. 15-1328), has retained BakerHostetler to assist Arnold & Porter as their representatives in the case moving forward and they will be entering an appearance in the litigation shortly. The result of that is that Justin will be recused from this litigation from this point forward, unless the circumstances change again. In terms of the lead Deputy GC, that will now move to Erik.

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Fugh, Justina[Fugh.Justina@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]; Albores, Richard[Albores.Richard@epa.gov]
From: Baptist, Erik
Sent: Wed 9/13/2017 8:53:10 PM
Subject: RE: Fall Industry Association and EPA OGC Dialogue Meeting

Thanks, Justina. If appropriate, it would be helpful to have someone advise the representatives of those associations of our limitations before the meeting. It would help avoid any awkward moments.

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

From: Fugh, Justina
Sent: Wednesday, September 13, 2017 1:28 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Albores, Richard <Albores.Richard@epa.gov>
Subject: Fall Industry Association and EPA OGC Dialogue Meeting

Gentlemen,

In reviewing the list of invited participants, OGC/Ethics noted that each of you has a potential conflict:

David Fotouhi – Association of American Railroads

Justin Schwab – American Fuel and Petrochemical Manufacturers

Erik Baptist – American Petroleum Institute

Please be advised that, before attending the event, you should first verify with Rich Albores whether your conflict will be attending and, if so, whether there will be at least four other participants. If so, then OGC/Ethics can allow you to participate in the meeting. The subject will involve a matter of general applicability and more than five entities will be present. You are reminded, however, that you should not engage in any sidebar conversation with the representative of your conflict, pursuant to your ethics obligations.

Thanks for your attention, as always. If you have any questions, please let Shannon Griffo or me know.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Schwab, Justin
Sent: Tue 8/1/2017 4:02:14 PM
Subject: Re: generic recusal question

Dear Justina,

Please confirm that I may participate in a matter once a party with whom I have a covered relationship has been dismissed from the matter.

Best,

Justin

Sent from my iPhone

On Jul 28, 2017, at 7:18 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Dear Justina,

In our discussion earlier this week, you advised that where the party with whom I have a covered relationship has been dismissed from a case, and I never worked for that party in that case, I am not barred from participating in that case.

Please confirm this understanding.

Best,

Justin

Sent from my iPhone

On Jul 23, 2017, at 8:19 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

So you are saying that you did not work on the underlying matter at all, correct? Is the former intervenor on your recusal list because of the ethics pledge or the impartiality standards? I just want to be sure I understand the parameters. Come on by to chat with me on Monday. I'll be holed up in my office, spending the entire day on FOIA responses.

Justina

From: Schwab, Justin

Sent: Saturday, July 22, 2017 2:39 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>;
Fotouhi, David <fotouhi.david@epa.gov>

Subject: generic recusal question

Dear Justina,

If I am recused from a case because I have a covered relationship with an intervenor, but that intervenor seeks and obtains dismissal from the case, may I then participate in that case?

Happy to discuss at your convenience.

Best,

Justin

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Baptist, Erik[baptist.erik@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; McConkey, Diane[Mcconkey.Diane@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Schwab, Justin
Sent: Tue 8/15/2017 6:33:11 PM
Subject: Re: New Recusal Info for Justin Re the Mexichem Litigation

Kevin,

Thank you for this note. I appreciate your attention to this and will recuse myself accordingly, unless and until the relevant circumstances change.

Best,

Justin

Sent from my iPhone

On Aug 15, 2017, at 2:28 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Hi Folks- Earlier this afternoon we learned that Honeywell, one of the intervenors in *Mexichem. v. EPA* (challenge to 2015 SNAP rule) (D.C. Cir. No. 15-1328), has retained BakerHostetler to assist Arnold & Porter as their representatives in the case moving forward and they will be entering an appearance in the litigation shortly. The result of that is that Justin will be recused from this litigation from this point forward, unless the circumstances change again. In terms of the lead Deputy GC, that will now move to Erik.

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Schwab, Justin[schwab.justin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; McConkey, Diane[Mcconkey.Diane@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Tue 8/15/2017 6:28:12 PM
Subject: New Recusal Info for Justin Re the Mexichem Litigation

Hi Folks- Earlier this afternoon we learned that Honeywell, one of the intervenors in *Mexichem. v. EPA* (challenge to 2015 SNAP rule) (D.C. Cir. No. 15-1328), has retained BakerHostetler to assist Arnold & Porter as their representatives in the case moving forward and they will be entering an appearance in the litigation shortly. The result of that is that Justin will be recused from this litigation from this point forward, unless the circumstances change again. In terms of the lead Deputy GC, that will now move to Erik.

Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Fugh, Justina[Fugh.Justina@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]
From: Albores, Richard
Sent: Thur 9/21/2017 6:00:39 PM
Subject: RE: Fall Industry Association and EPA OGC Dialogue Meeting

I can confirm that more than five invitees of fifteen will be attending this meeting next week. I have indicated to the participants that present potential conflicts that they should refrain from sidebar conversations with the deputies.

R

~~~~~

**RICHARD L. ALBORES**

Associate Deputy General Counsel \* Office of General Counsel \* U.S. EPA \* 1200 Pennsylvania Avenue, NW \* MC2310A \* Washington, DC 20460 \* email: albores.richard@epa.gov \* phone: 202.564.7102 \* mobile: 202.809.8029

**From:** Fugh, Justina  
**Sent:** Wednesday, September 13, 2017 1:28 PM  
**To:** Fotouhi, David <Fotouhi.David@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>  
**Cc:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Albores, Richard <Albores.Richard@epa.gov>  
**Subject:** Fall Industry Association and EPA OGC Dialogue Meeting

Gentlemen,

In reviewing the list of invited participants, OGC/Ethics noted that each of you has a potential conflict:

David Fotouhi – Association of American Railroads

Justin Schwab – American Fuel and Petrochemical Manufacturers

Erik Baptist – American Petroleum Institute

Please be advised that, before attending the event, you should first verify with Rich Albores whether your conflict will be attending and, if so, whether there will be at least four other participants. If so, then OGC/Ethics can allow you to participate in the meeting. The subject will involve a matter of general applicability and more than five entities will be present. You are reminded, however, that you should not engage in any sidebar conversation with the representative of your conflict, pursuant to your ethics obligations.

Thanks for your attention, as always. If you have any questions, please let Shannon Griffo or me know.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Mon 7/24/2017 12:25:12 AM  
**Subject:** Re: generic recusal question

Hello Justina,

Thank you for this response. I will plan to confer with you Monday.

1) Yes, this would be a matter on which I never worked.

2) I will need to discuss with you the difference in coverage between the ethics pledge and the impartiality standards, but I believe that this party would fall under both.

In this scenario the former intervenor would be a client of my former firm for whom I billed legal services (on an unrelated matter) within the past 2 years (i.e., more recently than two years ago today, not simply less than two years before I left the firm and joined the administration).

Best,

Justin

Sent from my iPhone

On Jul 23, 2017, at 8:19 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

So you are saying that you did not work on the underlying matter at all, correct? Is the former intervenor on your recusal list because of the ethics pledge or the impartiality standards? I just want to be sure I understand the parameters. Come on by to chat with me on Monday. I'll be holed up in my office, spending the entire day on FOIA responses.

Justina

**From:** Schwab, Justin  
**Sent:** Saturday, July 22, 2017 2:39 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>  
**Subject:** generic recusal question

Dear Justina,

If I am recused from a case because I have a covered relationship with an intervenor, but that intervenor seeks and obtains dismissal from the case, may I then participate in that case?

Happy to discuss at your convenience.

Best,

Justin

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Sat 7/22/2017 6:38:55 PM  
**Subject:** generic recusal question

Dear Justina,

If I am recused from a case because I have a covered relationship with an intervenor, but that intervenor seeks and obtains dismissal from the case, may I then participate in that case?

Happy to discuss at your convenience.

Best,

Justin

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Fri 7/28/2017 11:18:45 AM  
**Subject:** Re: generic recusal question

Dear Justina,

In our discussion earlier this week, you advised that where the party with whom I have a covered relationship has been dismissed from a case, and I never worked for that party in that case, I am not barred from participating in that case.

Please confirm this understanding.

Best,

Justin

Sent from my iPhone

On Jul 23, 2017, at 8:19 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Justin,

So you are saying that you did not work on the underlying matter at all, correct? Is the former intervenor on your recusal list because of the ethics pledge or the impartiality standards? I just want to be sure I understand the parameters. Come on by to chat with me on Monday. I'll be holed up in my office, spending the entire day on FOIA responses.

Justina

**From:** Schwab, Justin  
**Sent:** Saturday, July 22, 2017 2:39 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>  
**Subject:** generic recusal question

Dear Justina,



If I am recused from a case because I have a covered relationship with an intervenor, but that intervenor seeks and obtains dismissal from the case, may I then participate in that case?

Happy to discuss at your convenience.

Best,

Justin

**To:** Baptist, Erik[baptist.erik@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]  
**Cc:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]  
**From:** Albores, Richard  
**Sent:** Wed 9/13/2017 9:19:03 PM  
**Subject:** RE: Fall Industry Association and EPA OGC Dialogue Meeting

There are definitely more than 5 attendees and we will keep topics to issues of general applicability. I will reach out to the relevant organization reps and let them know not to side bar with the Deputies.

R

~~~~~

RICHARD L. ALBORES

Associate Deputy General Counsel * Office of General Counsel * U.S. EPA * 1200 Pennsylvania Avenue, NW * MC2310A * Washington, DC 20460 * email: albores.richard@epa.gov * phone: 202.564.7102 * mobile: 202.809.8029

From: Baptist, Erik
Sent: Wednesday, September 13, 2017 4:53 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Albores, Richard <Albores.Richard@epa.gov>
Subject: RE: Fall Industry Association and EPA OGC Dialogue Meeting

Thanks, Justina. If appropriate, it would be helpful to have someone advise the representatives of those associations of our limitations before the meeting. It would help avoid any awkward moments.

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

From: Fugh, Justina

Sent: Wednesday, September 13, 2017 1:28 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>

Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Albores, Richard <Albores.Richard@epa.gov>

Subject: Fall Industry Association and EPA OGC Dialogue Meeting

Gentlemen,

In reviewing the list of invited participants, OGC/Ethics noted that each of you has a potential conflict:

David Fotouhi – Association of American Railroads

Justin Schwab – American Fuel and Petrochemical Manufacturers

Erik Baptist – American Petroleum Institute

Please be advised that, before attending the event, you should first verify with Rich Albores whether your conflict will be attending and, if so, whether there will be at least four other participants. If so, then OGC/Ethics can allow you to participate in the meeting. The subject will involve a matter of general applicability and more than five entities will be present. You are reminded, however, that you should not engage in any sidebar conversation with the representative of your conflict, pursuant to your ethics obligations.

Thanks for your attention, as always. If you have any questions, please let Shannon Griffo or me

know.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fotouhi, David[fotouhi.david@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]; Albores, Richard[Albores.Richard@epa.gov]
From: Fugh, Justina
Sent: Wed 9/13/2017 5:28:22 PM
Subject: Fall Industry Association and EPA OGC Dialogue Meeting

Gentlemen,

In reviewing the list of invited participants, OGC/Ethics noted that each of you has a potential conflict:

David Fotouhi – Association of American Railroads

Justin Schwab – American Fuel and Petrochemical Manufacturers

Erik Baptist – American Petroleum Institute

Please be advised that, before attending the event, you should first verify with Rich Albores whether your conflict will be attending and, if so, whether there will be at least four other participants. If so, then OGC/Ethics can allow you to participate in the meeting. The subject will involve a matter of general applicability and more than five entities will be present. You are reminded, however, that you should not engage in any sidebar conversation with the representative of your conflict, pursuant to your ethics obligations.

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To: Albores, Richard[Albores.Richard@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]
From: Fugh, Justina
Sent: Fri 9/22/2017 9:53:18 PM
Subject: RE: Fall Industry Association and EPA OGC Dialogue Meeting

Hi there,

Well, to be super clear, I meant that they should not have any sidebar *substantive* conversations with their former clients. It's okay for them to say howdy and how are the kids! I just don't want anyone to try to leverage the meeting into then engaging J, D and E into some work-related conversation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Albores, Richard
Sent: Thursday, September 21, 2017 2:01 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Subject: RE: Fall Industry Association and EPA OGC Dialogue Meeting

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R

~~~~~

**RICHARD L. ALBORES**

Associate Deputy General Counsel \* Office of General Counsel \* U.S. EPA \* 1200 Pennsylvania Avenue, NW \* MC2310A \* Washington, DC 20460 \* email: [albores.richard@epa.gov](mailto:albores.richard@epa.gov) \* phone: 202.564.7102 \* mobile: 202.809.8029

**From:** Fugh, Justina

**Sent:** Wednesday, September 13, 2017 1:28 PM

**To:** Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>; Schwab, Justin <[Schwab.Justin@epa.gov](mailto:Schwab.Justin@epa.gov)>

**Cc:** Minoli, Kevin <[Minoli.Kevin@epa.gov](mailto:Minoli.Kevin@epa.gov)>; Griffo, Shannon <[Griffo.Shannon@epa.gov](mailto:Griffo.Shannon@epa.gov)>; Trudeau, Shaun <[Trudeau.Shaun@epa.gov](mailto:Trudeau.Shaun@epa.gov)>; Albores, Richard <[Albores.Richard@epa.gov](mailto:Albores.Richard@epa.gov)>

**Subject:** Fall Industry Association and EPA OGC Dialogue Meeting

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**To:** Schwab, Justin[schwab.justin@epa.gov]  
**Cc:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Mon 7/24/2017 12:19:10 AM  
**Subject:** RE: generic recusal question

Hi Justin,

So you are saying that you did not work on the underlying matter at all, correct? Is the former intervenor on your recusal list because of the ethics pledge or the impartiality standards? I just want to be sure I understand the parameters. Come on by to chat with me on Monday. I'll be holed up in my office, spending the entire day on FOIA responses.

Justina

**From:** Schwab, Justin  
**Sent:** Saturday, July 22, 2017 2:39 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>  
**Subject:** generic recusal question

Dear Justina,

If I am recused from a case because I have a covered relationship with an intervenor, but that intervenor seeks and obtains dismissal from the case, may I then participate in that case?

Happy to discuss at your convenience.

Best,

Justin

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

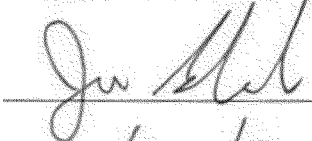
Washington, D.C. 20460

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Printed Name: JUSTIN SCHWAB

Signature: 

Date: 02/23/2017

**To:** Schwab, Justin[schwab.justin@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Fri 2/10/2017 8:30:54 PM  
**Subject:** here's a draft recusal statement for you  
[draft recusal statement.docx](#)

We are nearly ready to certify your 278, so this recusal statement reflects your ownership interest in Microsoft. I think I've captured the fact that you want to monitor personally your impartiality and bar obligations with respect to former clients. Take a look, please, and let me know if you have any questions. If not, then please print this out on letterhead, sign and date it.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Washington, D.C. 20460

AUG 7 - 2017

OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Justin Schwab  
Deputy General Counsel

TO: Kevin S. Minoli  
Acting General Counsel  
Designated Agency Ethics Official

A handwritten signature in black ink, appearing to read "Justin Schwab".

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum updates my earlier recusal by specifying my former clients, but I have been complying and will continue to comply with my continuing obligations to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment. Because of the current level of my financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects **Microsoft** as a specific party.

*OBLIGATIONS UNDER EXECUTIVE ORDER 13,770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my

former employer, **Baker and Hostetler LLP**, or any former client to whom I provided legal services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means five or more parties. Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA.<sup>1</sup>

| RECUSAL LIST                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In effect until January 23, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| FORMER EMPLOYER: Baker and Hostetler LLP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>FORMER CLIENTS:</p> <p>AK Steel Corporation<br/> American Bureau of Shipping<br/> American Fuel &amp; Petrochemical Manufacturers<br/> Arcelormittal Usa LLC<br/> Association of Battery Recyclers<br/> Big River Steel, LLC<br/> Broadwood Investment Holdings, LP<br/> Cape Wind Associates, LLC<br/> Caterpillar, Inc.<br/> Cato Institute<br/> Chevron U.S.A. Inc.<br/> Colgate-Palmolive Company<br/> Competitive Enterprise Institute<br/> C.R. Bard, Inc.<br/> Grupo Ferré Rangel<br/> JTEKT North America Corporation<br/> Mississippi Silicon, LLC</p> | <p>NYK Line North America, Inc.<br/> Oldcastle Materials, Inc.<br/> Pentair Residential Filtration, LLC<br/> Resolute Forest Products Inc.<br/> Salt River Pima-Maricopa Indian Community<br/> Sanders Lead Company, Inc.<br/> Shamrock Foods Company<br/> State Government Leadership Foundation<br/> Sunoco, Inc.<br/> The Aluminum Association, Inc.<br/> The Center for Consumer Freedom<br/> The National Center for Public Policy Research<br/> The Scotts Company, LLC<br/> The Southern Company<br/> Trafigura Trading LLC<br/> United States Beet Sugar Association<br/> Valero Renewable Fuels Company, LLC</p> |

<sup>1</sup> For my former clients that are not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

## *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

I am advised by OGC/Ethics that Executive Order 13770 defines “former employer” to exclude state government,<sup>2</sup> and the Office of Government Ethics has determined that the same exclusion applies to the definition of “former client.”<sup>3</sup> But as an executive branch employee, I understand that I am also subject to the federal impartiality standards and have a one-year cooling off period with any former client who is a state government. Therefore, I will not participate personally and substantially in any particular matter involving specific parties in which the **State of Oklahoma** or the **Virginia House of Delegates** is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). For federal ethics purposes, I understand that my recusal remains in effect for one year from the date that I last provided services to that client, and this federal ethics limitation does not extend to particular matters of general applicability, such as rulemaking. My recusal will end with regard to the State of Oklahoma on September 23, 2017, and with regard to the Virginia House of Delegates on August 31, 2017.

## *ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

## *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct David Fotouhi, Deputy General Counsel, and Richard Albores, Associate Deputy General Counsel, to assist in screening EPA matters directed to my attention that involve these entities. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics. I will also instruct my principal subordinates that all inquiries and comments involving the entities on my recusal list should be directed to Justin and Rich without my knowledge or involvement until after my recusal period ends.

If Mr. Fotouhi or Mr. Albores determine that a particular matter will directly involve any of the entities listed on my “specific party” recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with

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<sup>2</sup> See Exec. Order 13,770, Section 2(j), which provides that “‘former employer’ does not include ... State government.”

<sup>3</sup> See Office of Government Ethics Legal Advisory 17-02 (February 6, 2017), which states that, “[w]ith respect to Executive Order 13770, ethics officials and employees may continue to rely on OGE’s prior guidance regarding Executive Order 13490 to the extent that such guidance addresses language common to both orders,” and Office of Government Ethics Legal Advisory DO-09-011 (March 26, 2009), which states that “based on discussions with the White House Counsel’s office, OGE has determined that the definition of former client is intended to exclude the same governmental entities as those excluded from the definition of former employer.”

OGC/Ethics for a determination.

*UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my recusal or screening arrangement, I will provide a copy of the revised recusal statement to you and OGC, including OGC/Ethics.

cc: Elise Packard, Acting Principal Deputy General Counsel  
Erik Baptist, Senior Deputy General Counsel  
David Fotouhi, Deputy General Counsel  
Richard L. Albores, Associate Deputy General Counsel  
OGC Associate General Counsels and Directors  
Justina Fugh, Senior Counsel for Ethics  
Regional Counsels





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Washington, D.C. 20460

OFFICE OF  
THE ADMINISTRATOR

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Justin Schwab  
Senior Legal Advisor

TO: Don Benton  
Senior White House Advisor

Charles Munoz  
White House Liaison

*Jn J L 02/10/2017*

This memorandum provides you with written notification of my obligation to recuse myself from participation personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me unless I first obtain a written waiver, pursuant to § 208(b)(1), or qualify for a regulatory exemption, pursuant to § 208(b)(2). Because of the current level of my financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects *Microsoft* as a specific party.

In addition, I understand I am obliged to recuse myself from certain matters in which I have a covered relationship under the federal impartiality regulations. I am prohibited from participating in any particular matter in which my former employer, *Baker and Hostetler*, is or represents a party. I understand that my recusal lasts for one year from the date that I left the firm, so this recusal will end on January 19, 2018.

I further understand that I have a covered relationship with *any client* for whom I provided legal services. I understand that there is no *de minimis* exception for the provision of such services and that the ethics rules address any "person" to whom such services were provided, which can include subsidiaries. I will personally monitor my recusal list and promptly recuse myself as appropriate. For federal ethics purposes, this recusal remains in effect for one year from the date that I last provide services to that client or unless I am first authorized by the Office of General Counsel/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). But I understand that I am also subject to my own bar obligations.

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, and/or when I change positions within EPA. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to the appropriate supervisor, OGC/Ethics, and any principal subordinates.

I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

cc: Justina Fugh, Senior Counsel for Ethics

Justin Schwab 02/10/2017

**Justin Schwab**



**Certificate issued:** 01/21/2017

**Certificate ID Number:** JDUS-AMFNEW

**Full Organization:** OA

According to the EPA Domino Directory,  
Contact your local Help Desk if this  
organizational information is not correct.